

REVISED FINAL D R A F T
For review by the EAC's Advisory Boards

In the aggregate data, the match signature requirement, the provide a non-photo ID requirement, and the photo ID requirement were all correlated with lower turnout compared to requiring that voters state their names.

The signature, non-photo ID, and photo ID requirements were all correlated with lower turnout compared to the requirement that voters simply state their names. That the non-photo identification requirement was the most consistent in terms of statistical significance across the groups is intriguing given the intense debates surrounding photo identification requirements.

Significant questions about the relationship between voter identification requirements and turnout remain unanswered. The data examined in the statistical analysis could not capture the dynamics of how identification requirements might lower turnout, nor could they rule out that other attributes of a state's electoral system might explain the statistically significant correlations that the study found. If ID requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day , or forced to cast a provisional ballot that is not ultimately counted? The CPS data do not include measures that can answer this question. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for election judges to handle questions about, and potential disputes over, voter identification requirements.

Litigation Over Voter ID Requirements

A handful of cases have challenged identification requirements in court in recent years. In general, requirements that voters provide some identifying documentation have been upheld, where photo ID is *not* the only acceptable form. Whether laws requiring photo ID will be upheld is more doubtful. To date, only two cases have considered laws requiring voters to show photo ID (*Common Cause v. Billups* and *Indiana Democratic Party v. Rokita*).. Cases challenging the mandatory disclosure of voters' Social Security numbers on privacy grounds have yielded mixed results.

Non-photo identification. For the most part, courts have looked favorably on requirements that voters present some form of identifying documents if the photo identification is not the

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only form accepted. In *Colorado Common Cause v. Davidson*, No. 04CV7709, 2004 WL 2360485, at *1 (Colo. Dist. Ct. Oct. 18, 2004), plaintiffs challenged a law requiring all in-person voters to show identification (not just first-time registrants). The court upheld this requirement against a constitutional challenge. Similarly, in *League of Women Voters v. Blackwell*, 340 F. Supp. 2d 823 (N.D. Ohio 2004), the court rejected a challenge to an Ohio directive requiring first-time voters who registered by mail to provide one of the HAVA-permitted forms of identification, in order to have their provisional ballots counted. Specifically, the directive provided that their provisional ballots would be counted if the voter (a) orally recited his driver's license number or the last four digits of his social security number or (b) returned to the polling place before it closed with some acceptable identification (including reciting those identification numbers). *Id.* This was found to be consistent with HAVA.

Photo ID. Since the 2004 election, two states have adopted laws requiring photo identification at the polls in order to have one's vote counted, without an affidavit exception: Georgia and Indiana.³² Both these requirements were enacted in 2005 and both have been challenged in court. The Georgia law required voters attempting to cast a ballot in person present a valid form of photographic identification. O.C.G.A. § 21-2-417. On October 18, 2005, the District Court granted the plaintiffs' motion for a preliminary injunction, enjoining the application of the new identification requirements on constitutional grounds. In granting the injunction, the court held that plaintiffs' claims under both the Fourteenth Amendment (equal protection) and Twenty-Fourth Amendment (poll tax) had a substantial likelihood of succeeding on the merits at trial (*Common Cause v. Billups*, Prelim. Inj. 96, 104). In January 2006, Georgia enacted a modified version of its photo ID law, which the court has not yet ruled on. In the other state that has enacted a photo ID requirement (Indiana), legal challenges have also been filed. (*Indiana Democratic Party v. Rokita* and *Crawford v. Marion County Election Board*). On April 14, 2006, the district court granted defendants' motion for summary judgment, concluding that plaintiffs had failed to produce evidence showing that the state's ID law would have an adverse impact on voters. Another case of significance, for purposes of photo ID requirements, is *American Civil Liberties Union of Minnesota v. Kiffmeyer*, No. 04-CV-4653, 2004 WL

³² Indiana's law does allow voters without ID to cast provisional ballots, and then to appear before the county board of elections to execute an affidavit saying that they are indigent and unable to obtain the requisite ID without payment of a fee. But in contrast to other states, voters cannot cast a ballot that will be counted by submitting an affidavit at the polls, affirming that they are the registered voter and are otherwise eligible to vote.

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2428690, at *1 (D. Minn. Oct. 28, 2004). In that case, the court enjoined a Minnesota law that allowed the use of tribal photo ID cards, only for an Indian who lived on the reservation. 2004 WL 2428690, at *1. The Court found no rational basis for distinguishing based on whether or not the cardholder lives on the reservation. *Id.* at *1, 3. These decisions indicate that courts are likely to carefully scrutinize the evidence regarding the impact of photo ID requirements.

Privacy. In *Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993), the court struck down on due process grounds a Virginia law requiring disclosure of voters' social security numbers for voter registration. The social security numbers recorded in voter registration lists had been disclosed to the public and political parties that had requested the lists. The court found that the requirement to give the social security number effectively conditioned rights on the consent to an invasion of privacy. It concluded that this public disclosure of the social security numbers was not necessary to achieve the government's interest in preventing fraud. On the other hand, in *McKay v. Thompson*, 226 F.3d 752 (6th Cir. 2000), the court rejected privacy challenges based on both the Constitution and federal statutes, to a Tennessee law requiring social security numbers for voter registration since 1972. 226 F.3d at 755. Second, the NVRA only permits requiring the minimum amount of information necessary to prevent duplicate voter registration and to determine eligibility. The distinction appears to be between the use of Social Security numbers for internal purposes only, which was deemed permissible, and the disclosure of those numbers to the public which was not.

These decisions suggest that the courts will carefully scrutinize the evidence, where states require that voters produce a photo ID in order to cast a regular ballot. The courts have used a balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting social security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents. To provide both the clarity and certainty in administration of elections needed to forestall destabilizing challenges to outcomes, these early decisions suggest that best practice may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility.

Developments since 2004

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Since the passage of HAVA, with its limited requirements for voter identification, and following the 2004 election, debate over voter ID has taken place in state legislatures across the country. That debate has not been characterized by solid information on the consequences of tightening requirements for voters to identify themselves before being permitted to cast a regular, rather than a provisional, ballot.

Better information might improve the quality of the debate. Answers to the following key questions are not available in a form that might satisfy those on both sides of the argument.

- What is the overall incidence of vote fraud?
- How does fraud take place in the various stage of the process: registration, voting at the polls, absentee voting, or ballot counting?
- What contribution can tighter requirements for voter ID make to reducing vote fraud?
- What would be the other consequences of increasingly demanding requirements for voters to identify themselves? This is the question addressed, within the limits of the available data, in the analysis in this report.

Answering these questions would provide the information needed for more informed judgment in the states as they consider the tradeoffs among the competing goals of ballot integrity, ballot access, and administrative efficiency. The Carter-Baker Commission recognized the tradeoffs when it tied recommendation for national ID to an affirmative effort by government to identify unregistered voters and make it easy for them to register.

State Voter Databases and Voter ID

With the implementation of the HAVA Computerized Statewide Voter Registration List, an application for voter registration for an election for Federal office may not be accepted or processed unless the application includes a driver's license number or last four digits of the Social Security number on the voter registration form. This information can be used to verify the identity of the registrant through interfacing with lists maintained by the Motor Vehicle office and Social Security office. If registrants do not have either a driver's license or Social Security number, the State will assign a unique identifier number to that person.

Some states are wrestling now with these unresolved issues. In New Jersey, for example, pending legislation would require that voters must be able to confirm their registration through a secure access to the Statewide Voter Registration List. It also requires voters to present ID at

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the polls in order to cast a regular ballot if the numbers recorded on the registration have not been verified (or if no verifiable number appears on the registration). It recognizes the HAVA requirement that if the number provided by the voter has not been verified and if the voter does not present ID at the polls, that voter may cast a provisional ballot. The bill does not specify they have to provide ID within 48 hours in order for their vote to count, as is the case with first-time mail-in registrants.

As some states gain experience in this area, the EAC would perform a useful service by making timely recommendations of best practices for all states to consider.

Conclusions

The analysis of voter ID requirements is complex. It takes into account important values associated with an electoral process, such as ballot access and integrity. The continuing effort to understand how voter ID requirements may affect turnout and the integrity of the ballot could benefit from additional factual information, including statistical analyses. Our research includes a statistical study of this kind. It indicated that the level of voter turnout in a state is correlated with the stringency of the voter ID requirement imposed by that state. Additional empirical research of this nature, with additional data collected by or for the EAC, would further illuminate the relationship between stricter voter ID rules and turnout, perhaps explaining if awareness of a strict ID requirement tends to discourage would-be voters from going to the polls. Or, additional research may shed light on whether, if voters did go to the polls, stricter Voter ID requirements will divert more voters into the line for provisional ballots. The consequence of increased reliance on provisional ballots can be longer lines at the polls and confusion, without necessarily a clear demonstration that the security of the ballot is correspondingly increased.³³

The debate over voter ID in the states would be improved by additional research sponsored by the EAC. That might include longitudinal studies of jurisdictions that have changed voter ID requirements, as well as precinct-level analyses that would allow more finely tuned assessment of the correlation between stricter identification requirements and turnouts. Further research could also identify methods to eliminate the need for voters to bring specific identity documents

³³ In this connection, the Brennan Center's response to the Carter-Baker Commission report observes that, "while it might be true that in a close election "a small amount of fraud could make the margin of difference," it is equally true that the rejection of a much larger number of eligible voters could make a much bigger difference in the outcome." *Response to the Report of the 2005 Commission on Federal Election Reform*, The Brennan Center for Justice at NYU School of Law and Spencer Overton, On Behalf Of The National Network on State Election Reform, September 19, 2005

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with them to the polls, while assuring that each voter who casts a ballot is eligible and votes only once.



MEMORANDUM

TO: DOUG LEWIS, CHAIR
EAC BOARD OF ADVISORS

FROM: COMMISSIONER RAY MARTINEZ

SUBJECT: CREATION OF STATEWIDE VOTER REGISTRATION LIST
IMPLEMENTATION WORKING GROUP

DATE: MARCH 11, 2005

The Help America Vote Act of 2002 ("HAVA") requires that each State implement a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained and administered at the State level.¹ Moreover, the EAC is required by HAVA to adopt voluntary guidance to assist States in meeting this important requirement.²

Accordingly, to assist the EAC in developing voluntary guidance, the EAC requests your assistance in identifying up to four current members of the Board of Advisors who would be willing to serve on a Statewide Voter Registration List Implementation Working Group ("Working Group"). This Working Group will be comprised exclusively of state and local election officials drawn primarily from the current membership of the EAC's Board of Advisors and Standards Board, in addition to representation from the Department of Justice.

The immediate objective of the Working Group will be to review the minimum requirements and essential elements to creating a "HAVA-compliant" statewide voter registration list, as well as related implementation and operational issues. On a more long-term basis, the EAC is negotiating an agreement with the National Academy of Sciences ("NAS") in order to bring members of the Working Group together with information technology experts in databases, networking and security in order to discuss lingering technology issues related to the implementation and on-going use of statewide voter registration lists.

¹ Help America Vote Act, Pub.L. 107-252. Title II, § 303(a), 116 Stat. 1708 (codified at 42 U.S.C. § 15483 et seq.). An informal survey conducted by EAC staff last month found that States are in various stages of meeting this HAVA requirement.

² Help America Vote Act, Pub.L. 107-252. Title II, § 311(a), 116 Stat. 1715 (codified at 42 U.S.C. § 15501 et seq.).

The Working Group will begin its work via a two-day meeting to be held in Washington, D.C., on March 30 – 31, 2005. Based on the results of this initial meeting, EAC staff will produce draft voluntary guidance, which, after an appropriate public comment and hearing process, will be considered for final adoption by the EAC.³

Please forward the names and contact information of the four members of the EAC Board of Advisors who wish to participate in the Working Group no later than Friday, March 17, 2005 to Karen Lynn-Dyson. Ms. Dyson can be reached via email at klynndyson@eac.gov and telephone at (202) 566-3100.

Thank you.

³ EAC will implement a process for adoption of any final guidance which is in accordance with the public notice, comment and hearing provisions contained in HAVA, as well as a review period for the EAC's Board of Advisors and Standards Board.



MEMORANDUM

TO: MICHAEL SCIORTINO, CHAIR
PEGGY NIGHSWONGER, VICE CHAIR
EAC STANDARDS BOARD, EXECUTIVE BOARD

FROM: COMMISSIONER RAY MARTINEZ

SUBJECT: CREATION OF STATEWIDE VOTER REGISTRATION LIST
IMPLEMENTATION WORKING GROUP

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Accordingly, to assist the EAC in developing voluntary guidance, the EAC requests your assistance in identifying up to eight current members of the Standards Board who would be willing to serve on a Statewide Voter Registration List Implementation Working Group ("Working Group"). This Working Group will be comprised exclusively of state and local election officials drawn primarily from the current membership of the EAC's Board of Advisors and Standards Board, in addition to representation from the Department of Justice.

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Juliet E. Hodgkins/EAC/GOV
03/21/2007 05:02 PM

To "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Rosemary E. jlayson@eac.gov, Thomas R. Wilkey/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC
bcc

Subject One more time

History

This message has been forwarded

I think that Karen and I have captured all of the changes that needed to be made including answering the question posed by Commissioner Hillman regarding footnote #2.

Please take one final look.



Voter ID edited 32107- with changed footnote.doc

Juliet Thompson Hodgkins
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027408

EAC Study of Voter Identification Requirements

Background

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. In May 2005, EAC contracted with Rutgers, the State University of New Jersey through its Eagleton Institute of Politics (“Contractor”) to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches.

The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Drawing on its nationwide review and legal analysis of state statutes and regulations for voter identification, the contractor compared states with similar voter identification requirements and drew conclusions based on comparing turnout rates among states for one election – November 2004. For example, the turnout rate in 2004 in states that required the voter to provide a photo identification document¹ was compared to the turnout rate in 2004 in states with a requirement that voters give his or her name in order to receive a ballot. Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates² and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.³

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor’s testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC’s website, www.eac.gov.

EAC Declines to Adopt Draft Report

EAC finds the Contractor’s summary of States’ voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the implementation of voter identification requirements, to be a first step in the Commission’s efforts to study the possible impact of voter identification requirements.

However, EAC has concerns regarding the data, analysis, and statistical methodology the Contractor used to analyze voter identification requirements to determine if these laws have an impact on turnout rates. The Contractor used a single election’s statistics to conduct this analysis. The two sets of data came from the Census Bureau and included persons who were not eligible to and did not vote. The first analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations.

So, a second analysis using a data set based upon the Current Population Survey (which was self-reported and showed a significantly higher turnout rate than other conventional data) was conducted that produced only some evidence of correlation between voter identification requirements and turnout. Furthermore, the initial categorization of voter identification requirements included classifications that actually require no identification at all, such as "state your name." The research methodology and the statistical analysis used by the Contractor were questioned by independent working and peer review groups comprised of social scientists and statisticians. The Contractor and the EAC agree that the report raises more questions than provides answers.⁴ Thus, EAC will not adopt the Contractor's study and will not issue an EAC report based upon this study. All of the material provided by the Contractor is attached.

Further EAC Study on Voter Identification Requirements

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state this or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identity.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification. Topics to be discussed include methodology, specific issues to be covered in the study and timelines for completing an EAC study on voter identification.
- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender. Study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting.
- Publish a series of best practice case studies which detail a particular state's or jurisdiction's

experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.


1 In 2004, three of the states that authorized election officials to request photo identification allowed voters to provide a non-photo ID and still vote a regular ballot and two others permitted voters who lacked photo ID to vote a regular ballot by swearing and affidavit.

2 The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. These data did not differentiate between citizens and non-citizens; because these numbers include non-citizens, the Contractor applied the percentage of citizens included in voting age population statistics in 2000 to the U.S. Census Bureau estimated voting age population in 2004. Thus, 2004 estimates of voting age population include persons who are not registered to vote.

3 The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S. citizens.

4 See Transcript of EAC Public Meeting, February 8, 2007, page 109.

Karen Lynn-Dyson/EAC/GOV
03/21/2007 05:15 PM

To Rosemary E. Rodriguez/EAC/GOV@EAC
cc
bcc
Subject Re: questions 

In fact, we did not ever meet with Eagleton on the research and statistical methodology they chose to employ with the Voter ID portion of the study.

Eagleton did brief the Commission twice but the focus on was on the provisional voting portion of the study. Certainly, in hindsight it would have been appropriate to have gotten such a briefing. I believe EAC thought it was sufficiently "covered" given the substantial involvement of a project working group that we had approved and with the use of an EAC peer review group.

Certainly, we'll be far more cautious the next time around.

Regards-

Karen Lynn-Dyson
Research Director
U.S. Election Assistance Commission
1225 New York Avenue , NW Suite 1100
Washington, DC 20005
tel:202-566-3123

Rosemary E. Rodriguez/EAC/GOV

Rosemary E.
Rodriguez/EAC/GOV
03/21/2007 04:14 PM


To klynn-dyson@eac.gov
cc
Subject questions

Did the Commission ever meet with Eagleton and ask for an explanation of the methodology--would that have been appropriate?

Rosemary E. Rodriguez
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027413

Caroline C. Hunter/EAC/GOV
03/21/2007 05:26 PM

To Jeannie Layson/EAC/GOV@EAC
cc Bryan Whitener/EAC/GOV@EAC, ddavidson@eac.gov,
ghillman@eac.gov, klynndyson@eac.gov, Rosemary E.
Rodriguez/EAC/GOV@EAC, twilkey@eac.gov
bcc
Subject Re: FOR YOUR APPROVAL: VoterID Draft Press Release 

Please see attached.



VoterID release Hunter edits.doc

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Jeannie Layson/EAC/GOV

Jeannie Layson/EAC/GOV
03/21/2007 03:48 PM

To ddavidson@eac.gov, Rosemary E.
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cc twilkey@eac.gov, klynndyson@eac.gov,
klynndyson@eac.gov, Bryan Whitener/EAC/GOV@EAC
Subject FOR YOUR APPROVAL: VoterID Draft Press Release

Commissioners,
Attached is a draft press release about Commission actions surrounding the voter ID research. Please get your comments/edits back to me by Friday morning, and let me know if you have any questions. I will coordinate with Karen and Julie regarding its release, and tomorrow I will present you with a recommended strategy for the announcement of your decision. (Of course, it will not go out before the delivery of a related letter.)




VoterIDPressReleaseDRAFT.doc

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027414

www.eac.gov

Caroline C. Hunter/EAC/GOV
03/21/2007 05:26 PM

To Juliet E. Hodgkins/EAC/GOV@EAC
cc "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC, jlayson@eac.gov, Karen Lynn-Dyson/EAC/GOV@EAC, Rosemary E.
bcc
Subject Re: One more time 

Looks good to me.

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Juliet E. Hodgkins/EAC/GOV
03/21/2007 05:02 PM

To "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Rosemary E. Rodriguez/EAC/GOV@EAC
cc jlayson@eac.gov, Thomas R. Wilkey/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC
Subject One more time

I think that Karen and I have captured all of the changes that needed to be made including answering the question posed by Commissioner Hillman regarding footnote #2.

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jthompson@eac.gov, Elieen L. Kuala/EAC/GOV@EAC,
sbanks@eac.gov, [REDACTED]
bcc

Subject Voter ID roll out strategy

Commissioners,
Attached is a memo outlining my suggested strategy for releasing the results of your tally vote. It includes an overall message and Q&A. Please let me know if you have any questions about this information, and I look forward to your input. Thank you.



VoterIDRollOutProposal 03-22-07.doc

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027417



**Deliberative Process
Privilege**

March 22, 2007

MEMORANDUM

To: Commissioners Davidson, Rodriguez, Hunter and Hillman
Fr: Jeannie Layson
Cc: Tom Wilkey, Julie Hodgkins, Karen Lynn-Dyson, Bryan Whitener
RE: Communications Strategy for Release of Voter ID Tally Vote Results

In anticipation of the release of the results of the tally vote and all of the information provided by the contractor, I suggest taking the following steps to effectively communicate your decision. Taking this approach will help us control how the information is distributed, how it is framed, and how to focus the discussion on the positive outcome of your decision.

The bottom line is that we want to try our best to make this a story about EAC's decision to conduct a thorough and in-depth look into the subject of voter ID, and we have decided to release the preliminary research. We do not want this to evolve into a storyline about squabbling between EAC and Eagleton.

I have provided a suggested overall message that reflects the action taken, as well as questions we should be prepared to answer.

Please let me know if you have any questions about my proposal, and I look forward to your input.

027418

PRELIMINARY ACTIVITIES

Prior to the completion of the tally vote and the subsequent release of the results and the contractor's materials, I suggest taking the following steps:

1. Discuss EAC's decision with the contractors in advance of distributing the press release and discussions with reporters so that they have an opportunity to respond and also so they will be well informed and prepared to discuss the facts with reporters or others who will most likely contact them.
2. Prior to release of EAC's decision, reach out to key Hill staffers who have been following this issue, including those members who have requested this data in the past. This should include staffers for the House Appropriations Committee Subcommittee on Financial Services and General Government since the Committee requested this information a few weeks ago. It should be made clear to committee staffers that the tally vote is the culmination of a directive made by the EAC chair in Feb. that the agency move forward to complete this project. These staffers should also be included on our list of key stakeholders.
3. Executive director should determine whether there are other key stakeholders that should be made aware of this decision from EAC personally, not from a press release. Possible candidates include members of Congress, NASS, individual secretaries of state, DOJ, and NASED.

PUBLIC ROLL-OUT

Once the above preliminary steps have been completed, EAC Communications will:

1. Post the press release and the related data on the website, with a link from the home page.
2. Prior to release of the tally vote decision and related data, call Richard Whitt of USA Today, Will Lester of AP, Chris Drew of the NYT, and Zach Goldfarb of the WaPo and let them know we are about to release the information. Offer interviews with the chair or other commissioners.
3. Send the press release (with a link to the research) to all recipients in the media database. This includes national dailies, as well as wire services such as the Associated Press.
4. Send the press release (with a link to the research) to all recipients in the stakeholder database. The database consists of election officials, advocates, and other interested parties, including representatives from organizations who have been critical of EAC, including VoteTrust USA and the People for the American Way.

OVERALL MESSAGE

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The findings of the preliminary research, which focused exclusively on the 2004 general elections, was insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors including, the many changes in state laws and regulations that have occurred since the 2004.

Q&A

We should be prepared to answer the following questions:

Q: Why not release the draft fraud report, too?

A: EAC issued a final Voting Fraud and Voter Intimidation Report in December 2006, which included recommendations adopted by the Commission to conduct a comprehensive assessment of all claims, charges and prosecutions of voting crimes.

In the case of the voter ID report, the Commission chose not to adopt a final report because it was determined that there was insufficient data to provide meaningful conclusions.

Q: You cited concerns with the contractor's methodology and analysis. Didn't your contract with Eagleton include specific language regarding these issues?

A: Yes, but in retrospect, perhaps we could have done a better job articulating how we wanted this research to be conducted.

Q: During the course of the project, did you see draft reports? If so, why didn't these concerns get addressed at that time?

A: We did receive progress reports, and when we identified areas of concern, we discussed it with the contractor. It was because of these concerns that EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: During the course of the contract, did you ever express these concerns with Eagleton?

A: Yes, and as a result of these conversations, EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

Q: You spent more than \$500,000 for a report the Commission doesn't think should be adopted – so basically you're flushing a lot of money down the drain. Is this a wise use of taxpayer dollars?

A: There is value in what Eagleton provided. It will help provide a baseline for how to move forward. And even though their research raised many questions, contemplating the answers to those questions has informed us on how to move forward.

Q: If you were not satisfied with the final product, why did you pay for it?

A: We adhered to the terms of the contract.

Q: EAC received this data in June of last year. What has taken so long to bring it to a conclusion?

A: This is an important issue, one that deserves careful deliberation and a thorough approach. Yes, we like to get things done quickly, but it is more important to take the time to get things right.

TRANSITION PHRASES

To stay on message and avoid being dragged into discussions about anything other than the action taken, employ the following phrases and transition back to the overall message.

Overall Message

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The findings of the preliminary research, which focused exclusively on the 2004 general elections, were insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors, including the many changes in state laws and regulations that have occurred since 2004.

Bridge/Transition Phrases

- What's really important here...
- The bottom line is...
- The point is...
- We have a responsibility to...
- I'll let others speak to that, but let me tell you what's important to EAC...
- Everyone agrees that...



"Rosemary Rodriguez"

03/27/2007 02:20 PM

To jlayson@eac.gov, ddavidson@eac.gov, chunter@eac.gov,
ghillman@eac.gov, rrodriguez@eac.gov
cc twilkey@eac.gov, klynndyson@eac.gov,
jthompson@eac.gov, bwhitener@eac.gov, ekuala@eac.gov,
[REDACTED], sbanks@eac.gov,
bcc

Subject Re: FOR YOUR APPROVAL: Voter ID PR and Roll Out
Strategy

I think we should be prepared to answer a question that may go something like: *What are your specific objections/concerns with the methodologies utilized by Eagleton?*

----- Original Message -----

From: "jlayson@eac.gov" <jlayson@eac.gov>

To: ddavidson@eac.gov; [REDACTED]; chunter@eac.gov; ghillman@eac.gov

Cc: twilkey@eac.gov; klynndyson@eac.gov; jthompson@eac.gov; bwhitener@eac.gov;

ekuala@eac.gov; [REDACTED]; sbanks@eac.gov; bbenavides@eac.gov

Sent: Tuesday, March 27, 2007 2:02:01 PM

Subject: FOR YOUR APPROVAL: Voter ID PR and Roll Out Strategy

Commissioners,

I have incorporated your edits, so please take a look at the latest drafts of both documents and let me know if you have further changes. I recommend making this public on Thursday. If possible, please let me know by the end of the day on Wed. if you have additional edits. Press release edits were made in the first two paragraphs, including backing off calling this a "multi-year study," and a more direct description of the action you took -- you declined to adopt the report. The only edit in the memo is new language in the Q&A that points out that the \$500K included work for both prov. voting and voter ID.

Thank you, and let me know if you have any questions.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

8:00? 8:25? 8:40? Find a flick in no time
with the Yahoo! Search movie showtime shortcut.

027422

Attorney-Client
Privilege

Juliet E. Hodgkins/EAC/GOV
03/28/2007 06:19 PM

To "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Rosemary E. Thomas R. Wilkey/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC, jlayson@eac.gov
bcc

Subject Comments on Eagleton's response

History

This message has been replied to

Karen will present our discussion and conclusions tomorrow. However, when we left the briefing, I think everyone believed that I would provide comments since I will not be able to be on the phone. As such, I am transmitting my comments through this email. I will respond or address Eagleton's numbered paragraphs (note that there is no paragraph 4).

1. There is no need to address this as Eagleton agrees that they only reviewed one election's statistics. The statement of work for the contract told them to review the status of the law in 2004, but in no way limited their analysis to a single year.

2. I believe that Eagleton's issue here is one of semantics. They don't like the phraseology of this sentence. However, the sentence is true and is demonstrated by the sentence in paragraph 2 of the statement that they reviewed and to which they provided comments. That paragraph specifically contains the following information: "Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates(FN2) and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.(FN3)" Eagleton made two sets of comments to Footnote 2, which is imbedded in the sentence that was just quoted. They explained their methodology in those comments and that methodology was captured in footnote 2. That footnote specifically contains the following sentences: "These data did not differentiate between citizens and non-citizens;... Thus, 2004 estimates of voting age population include person who are not registered to vote."

3. Eagleton objects to the use of the word "so" in the second sentence. They believe that this creates an inference that they only used the second set of data because the first did not show significant correlations. While generally speaking, I believe that this inference is at least partially true, since researchers are always searching for a set of data that will show a statistically significant correlation and will proceed to a different set of data if the first does not show it, it is not the intended inference of these two sentences. The point is to show that of the two data sets that they used one showed no significant correlation and the second showed some correlations (however not all variables showed correlation). And, that the second set of data -- the one that showed correlation was questionable because of the unusually high turnout rate that was reported. As such, we have agreed to remove the words "so" at the beginning of the second sentence and "only" in the middle of the second sentence -- see #9).

4. There is no number 4.

5. I believe that the statement as contained in the EAC statement is TRUE. Stating one's name is not an independently verifiable form of identification, and I think those are the forms of identification that we are talking about. I can walk into any polling place in the country and state the name of any person. Unless the poll worker knows me or knows the person whose name I have used, there is no way to independently verify whether my statement is true. Conversely, my signature can be compared, my address can be verified, or my driver's license can be scrutinized to determine if I am the person that I purport to be. While it is true that I identify myself on the phone or in person all the time by stating my name, it is not for the purpose of determining my eligibility to vote in a particular precinct, etc. I believe that when the term identification is used in the context of voting that it must mean that the voter provides some independently verifiable form of identification. Having said this, I understand that this may be a point of disagreement for others. But, as for me, this statement is true.

6. Based on conversations with Karen concerning the two groups-- one assembled by Eagleton and one

027423

assembled by EAC -- both "questioned" the methodology and statistical analysis employed by Eagleton. The group assembled by Eagleton was referred to by them in their report as their "peer review group." Karen feels that "working group" is not an accurate description of the group assembled by EAC, so she has language to use to replace "independent working group" that captures the essence of that group.

7. See response to #2, above.

8. See response to #1, above.

9. See response to #3, above.

10. See response to #6, above.

11. I believe that the Commission must act on this report. Merely stating what we will do in the future will not distance us from this work and will result in media and others quoting Eagleton's work as an "EAC" report. It has been my understanding that the consensus of the group is to "decline to adopt." I believe that this is the right action.

My flight departs at 9:20 a.m. (EDT) and I do not arrive until 12:15 p.m. (EDT). However, if you have questions concerning my comments, I will be around tonight and will be available tomorrow afternoon by Blackberry.

Juliet T. Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100

Juliet E. Hodgkins/EAC/GOV
03/28/2007 09:55 PM

To Rosemary E. Rodriguez/EAC/GOV@EAC
cc Caroline C. Hunter/EAC/GOV@EAC, Donetta L.
Davidson/EAC/GOV@EAC, Gracia
Hillman/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC,
bcc
Subject Re: Comments on Eagleton's response

I have not reviewed the various laws, but I believe that it would require that kind of review to answer your question accurately. My guess is that much like other election-related provisions, the language of the statute and the placement of the statute in the code or statutory scheme will dictate the answer to the question. Some may not even be written into statute. If you want me to, I can get someone to start working on that review.

Juliet T. Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100
Rosemary E. Rodriguez/EAC/GOV

Rosemary E.
Rodriguez/EAC/GOV
03/28/2007 06:54 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Donetta L.
Davidson/EAC/GOV@EAC, Gracia
Hillman/EAC/GOV@EAC, Caroline C.
Hunter/EAC/GOV@EAC
cc Thomas R. Wilkey/EAC/GOV@EAC, Karen
Lynn-Dyson/EAC/GOV@EAC, Jeannie
Layson/EAC/GOV@EAC
Subject Re: Comments on Eagleton's response

Julie, in your legal opinion, is stating one's name considered identification in the states where it is the threshold requirement?

Juliet E. Hodgkins
----- Original Message -----

From: Juliet E. Hodgkins
Sent: 03/28/2007 06:19 PM EDT
To: Donetta Davidson; Gracia Hillman; Caroline Hunter; Rosemary Rodriguez
Cc: Thomas Wilkey; Karen Lynn-Dyson; Jeannie Layson
Subject: Comments on Eagleton's response

Karen will present our discussion and conclusions tomorrow. However, when we left the briefing, I think everyone believed that I would provide comments since I will not be able to be on the phone. As such, I am transmitting my comments through this email. I will respond or address Eagleton's numbered paragraphs (note that there is no paragraph 4).

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questions concerning my comments, I will be around tonight and will be available tomorrow afternoon by Blackberry.

Juliet T. Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100

Jeannie Layson/EAC/GOV
03/30/2007 01:15 PM

To Caroline C. Hunter/EAC/GOV@EAC, Rosemary E.
Rodriguez/EAC/GOV@EAC
cc
bcc
Subject Fw: press release

So far, so good trying to avoid the showdown w/Eagleton.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

----- Forwarded by Jeannie Layson/EAC/GOV on 03/30/2007 01:12 PM -----



"Tim Vercellotti"

03/30/2007 01:08 PM

Please respond to
tim.vercellotti@eac.gov

To jlayson@eac.gov
cc tim.vercellotti@eac.gov, John Weingar
Subject Re: press release

Jeannie:

Thanks very much for the update. I really appreciate it. I also had a conversation with NPR. One of the points I made was that it is terrific that the EAC plans to devote additional resources to studying the topic.

Tim

--
Tim Vercellotti, Ph.D.
Assistant Research Professor
Assistant Director, Eagleton Center for Public Interest Polling
Eagleton Institute of Politics
Rutgers, The State University of New Jersey
191 Ryders Lane
New Brunswick, NJ 08901

> Commissioner Rodriguez did an interview with NPR, and she talked about the
> need to look at more than one election. Reporter asked if EAC rejected
> your research, and she said no, that what the commission did was conclude
> that we needed to study this issue in even more depth.

> Also, I sent this info to Wendy Weiser at the Brennan Center, as they have
> shown a lot of interest in its progress.

> I will keep you updated. Also, I've attached the PDF if you want to post
> it on your website. (I didn't know if you had already had everything
> compiled into one file.)

> Jeannie Layson

027427

> U.S. Election Assistance Commission
> 1225 New York Ave., NW
> Suite 1100
> Washington, DC 20005
> Phone: 202-566-3100
> www.eac.gov
>
>
>

> "Tim Vercellotti" <[REDACTED]>
> 03/30/2007 12:34 PM
> Please respond to
> [REDACTED]
>
>
>

> To
> jlayson@eac.gov
> cc

> [REDACTED], john.weingart@[REDACTED]

> Subject
> Re: press release
>
>
>
>
>
>

> Jeannie:

> OK. Everyone worked very hard on this project, and I wanted to make sure
> everyone gets recognition for their efforts.
>

> Tim

> --

> Tim Vercellotti, Ph.D.
> Assistant Research Professor
> Assistant Director, Eagleton Center for Public Interest Polling
> Eagleton Institute of Politics
> Rutgers, The State University of New Jersey
> 101 [REDACTED]
> New Brunswick, NJ 08901
> Phone: [REDACTED]
> Fax: [REDACTED]
>

>> Tim,

>> Sorry... spoke too soon. We're only listing you guys in the press
> release

>> b/c our contract was with you. And we don't want to confuse people when
> we

>> refer to the "contractor." However, we are posting the entire report,
> and

>> Ohio State is featured prominently on the cover.
>>

>> Jeannie Layson
>> U.S. Election Assistance Commission
>> 1225 New York Ave., NW
>> Suite 1100
>> Washington, DC 20005
>> Phone: 202-566-3100
>> www.eac.gov
>>

>>
>>
>> "Tim Vercellotti" <tim.verscellotti@eac.gov>
>> 03/30/2007 12:13 PM
>> Please respond to
>> tim.verscellotti@eac.gov
>>
>>
>> To
>> jlayson@eac.gov
>> cc
>> john.weingart@eac.gov
>> Subject
>> Re: press release
>>
>>
>>
>>
>>
>> Jeannie:
>>
>> Thanks for the heads up. I am curious as to why the release does not
>> mention the other half of the research team, the Moritz College of Law
> at
>> The Ohio State University. Their legal research on the classification of
>> ID requirements provided crucial infrastructure for the statistical
>> analysis.
>>
>> Tim
>> --
>> Tim Vercellotti, Ph.D.
>> Assistant Research Professor
>> Assistant Director, Eagleton Center for Public Interest Polling
>> Eagleton Institute of Politics
>> Rutgers, The State University of New Jersey
>> [REDACTED]
>> New Brunswick, NJ 08901
>> Phone: [REDACTED]
>> Fax: [REDACTED]
>>
>>> Tim,
>>> Per our conversation, the press release is attached. We will also post
>>> your entire report on our website. This go live in about 45 min. Again,
>>> please don't hesitate to call if you have any questions, and I will
> keep
>>> in the loop regarding media inquiries.
>>>
>>> Jeannie Layson
>>> U.S. Election Assistance Commission
>>> 1225 New York Ave., NW
>>> Suite 1100
>>> Washington, DC 20005
>>> Phone: 202-566-3100
>>> www.eac.gov
>>>
>>
>>
>>
>>
>

Jeannie Layson/EAC/GOV
03/30/2007 02:04 PM

To ddavidson@eac.gov, Rosemary E.
Rodriguez/EAC/GOV@EAC, Caroline C.
Hunter/EAC/GOV@EAC, ghillman@eac.gov
cc twilkey@eac.gov, klynndyson@eac.gov,
jthompson@eac.gov

bcc

Subject Voter ID update

Commissioners,

The press release, the statement, and the draft report has been posted on our site. The press release is being distributed, and is on the way to all of you and the entire EAC staff. The following activities have occurred:

1. Press release was sent in advance to Eagleton.
2. I called Wendy Weiser of the Brennan Center and sent her the info.
3. I called and sent the info to Ray M. and Paul D.
4. I sent the info to Tom Hicks and Adam A.
5. Tom called Dan Tokaji, Dan Oak, and Rep. Hinchey's office.
6. Karen gave the three EAC experts a heads up.
7. Comm. Rodriguez was interviewed by NPR (the only outlet that showed any interest), as was Eagleton. Eagleton told NPR they are glad we are expanding the scope. Interview will run on affiliates today at approximately 5:44 pm EST.
8. I offered interviews to USA Today, WaPo, NYT, and AP but none were interested.
9. I have kept Eagleton apprised of our activities.

I'll continue to keep you apprised as the day goes on, and please let me know if there's anyone else you'd like me to contact.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

027430

Bryan Whitener/EAC/GOV

To

03/30/2007 02:40 PM

cc

bcc Rosemary E. Rodriguez/EAC/GOV

Subject EAC to Launch Comprehensive Study of Voter ID Laws,
3-30-07

History: This message has been forwarded

For Immediate Release

March 30, 2007

Contact:

Jeannie Layson
Bryan Whitener
(202) 566-3100

EAC to Launch Comprehensive Study of Voter ID Laws

WASHINGTON - The U.S. Election Assistance Commission (EAC) has voted unanimously to launch a comprehensive study focused on voter identification laws after concluding that initial research it received in a report, which focused on only one election cycle, was not sufficient to draw any conclusions. The Commission declined to adopt the report, but is releasing all of the data to the public.

The report and the research, conducted by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics, are available at www.eac.gov. The Commission's statement regarding its decision is attached.

"After careful consideration of the initial research, the Commission decided this important issue deserves a more in-depth research approach, and that it should be examined beyond only one election cycle," said EAC Chair Donetta Davidson. "The Commission and our contractor agree that the research conducted for EAC raises more questions than provides answers."

EAC's strategy for moving forward is based upon an examination of the initial research and the testimony and discussion about this research project at the Commission's February 8, 2007 public meeting. For more information about the public meeting, including the agenda, transcript, and testimony go to http://www.eac.gov/Public_Meeting_020807.asp.

EAC's future research on this topic will be expanded to include more than one federal election, environmental and political factors, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004. EAC's comprehensive research approach will undertake the following activities:

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- * Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements.
- * Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation. EAC will use some of the information collected by the contractor as well as additional data from the states to develop this baseline.
- * In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification.
- * Study how voter identification provisions that have been in place for two or more federal elections have impacted voter turnout, voter registration figures, and fraud.
- * Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements.

EAC is an independent bipartisan commission created by the Help America Vote Act of 2002 (HAVA). It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary Rodriguez, Caroline Hunter and Gracia Hillman.

#

EAC Statement on Study of Voter Identification Requirements

Background

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. In May 2005, EAC contracted with Rutgers, the State University of New Jersey through its Eagleton Institute of Politics ("Contractor") to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches.

The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Drawing on its nationwide review and legal analysis of state statutes and regulations for voter identification, the contractor compared states with similar voter identification requirements and drew conclusions based on comparing

turnout rates among states for one election - November 2004. For example, the turnout rate in 2004 in states that required the voter to provide a photo identification document* was compared to the turnout rate in 2004 in states with a requirement that voters give his or her name in order to receive a ballot. Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates* and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.*

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor's testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC's website, www.eac.gov.

EAC Declines to Adopt Draft Report

EAC finds the Contractor's summary of States' voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the implementation of voter identification requirements, to be a first step in the Commission's efforts to study the possible impact of voter identification requirements.

However, EAC has concerns regarding the data, analysis, and statistical methodology the Contractor used to analyze voter identification requirements to determine if these laws have an impact on turnout rates. The study only focused on one federal election. An analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations. A second analysis using a data set based upon the Current Population Survey (which was self-reported and showed a significantly higher turnout rate than other conventional data) was conducted that produced some evidence of correlation between voter identification requirements and turnout. The initial categorization of voter identification requirements included classifications that, actually, require no identification documentation, such as "state your name." The research methodology and the statistical analysis used by the Contractor were questioned by an EAC review group comprised of social scientists and statisticians. The Contractor and the EAC agree that the report raises more questions than provides answers and both agree the study should have covered more than one federal election.* Thus, EAC will not adopt the Contractor's study and will not issue an EAC report based upon this study. All of the material provided by the Contractor is attached.

*1 In 2004, three of the states that authorized election officials to request photo identification allowed voters to provide a non-photo ID and still vote a regular ballot and two others permitted voters who lacked photo ID to vote a regular ballot by swearing and affidavit.

*2 The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. These data did not differentiate between citizens and non-citizens; because these numbers include non-citizens, the Contractor applied the percentage of citizens included in voting age population statistics in 2000 to the U.S. Census Bureau estimated voting age population in 2004. Thus, 2004

estimates of voting age population include persons who are not registered to vote.

* 3 The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S. citizens.

* 4 See Transcript of EAC Public Meeting, February 8, 2007, page 109.

Further EAC Study on Voter Identification Requirements

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- * Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state his or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identify.

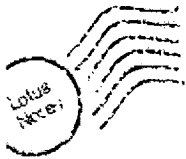
- * Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.

- * In 2007, convene a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification. Topics to be discussed include methodology, specific issues to be covered in the study and timelines for completing an EAC study on voter identification.

- * Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender. Study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting.

- * Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

###



Gracia Hillman/EAC/GOV

03/30/2007 06:26 PM

To Jeannie Layson/EAC/GOV@EAC, Donetta L. Davidson/EAC/GOV@EAC, Rosemary E. Rodriguez/EAC/GOV@EAC, Caroline C. Thomas R. Wilkey/EAC/GOV@EAC, Karen Lynn-Dyson/EAC/GOV@EAC, Juliet E. Hodgkins/EAC/GOV@EAC

bcc

Subject Re: Voter ID update 

Too early yet.

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Jeannie Layson

Sent: 03/30/2007 04:19 PM EDT

To: Donetta Davidson; Rosemary Rodriguez; Caroline Hunter; Gracia Hillman

Cc: Thomas Wilkey; Karen Lynn-Dyson; Juliet Hodgkins

Subject: Voter ID update

Commissioners,

Absolutely no activity/interest since my last update. Eagleton says no one other than NPR has contacted them. I'll let you know if anything changes. Otherwise, have a good weekend.

Jeannie Layson

U.S. Election Assistance Commission

1225 New York Ave., NW

Suite 1100

Washington, DC 20005

Phone: 202-566-3100

www.eac.gov

027435

Jeannie Layson/EAC/GOV
03/30/2007 08:33 PM

To "Donetta Davidson" <ddavidson@eac.gov>, "Gracia Hillman" <ghillman@eac.gov>, Rosemary E. Rodriguez/EAC/GOV@EAC, Caroline C.
cc "Tom Wilkey" <twilkey@eac.gov>, "Karen Lynn-Dyson" <klynndyson@eac.gov>, "Julie Thompson" <jthompson@eac.gov>

bcc

Subject Hinchey statement

History:  This message has been replied to and forwarded.

Hinchey Statement on U.S. Election Assistance Commission's

Release of Report on Voter Identification Issues

Washington, DC - Congressman Maurice Hinchey (D-NY) today released the following report in response to the U.S. Election Assistance Commission's (EAC) release of a report on voter identification issues that was submitted to them by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics, and Ohio State University's Moritz College of Law. Hinchey directly requested the release of the report when EAC Chairwoman Donetta Davidson appeared earlier this month before the House Appropriations Subcommittee on Financial Services, of which the congressman is a member. Davidson told Hinchey at the hearing that she would provide the subcommittee with the report that is being released to the public today. Hinchey also requested the release of a separate report on voter fraud and intimidation. The Help America Vote Act (HAVA) requires the EAC to conduct and make available to the public studies regarding certain voting issues.

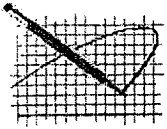
"I am very pleased that following Chairwoman Davidson's appearances before Congress the EAC decided to do the right thing and make public the Eagleton Institute of Politics study on voter identification issues. I hope that this decision signals a new day of transparency and sets a precedent for all future and previous studies and reports submitted to the EAC.

"When Chairwoman Davidson came before our subcommittee a few weeks ago, I also requested that the EAC make public another report about voter fraud and voter intimidation submitted to them by two outside consultants. It is my hope they will release this report to the public as well. The EAC has the responsibility to keep the public informed on any findings it has with regards to voter fraud, intimidation, and any other electoral issues.

"As we work to increase voter turnout and make our democracy function more effectively, it is imperative that potential voters are assured that they will be able to cast their votes fairly and in an environment free of intimidation. To achieve that goal, the EAC must be open with the information it receives in order to help identify voting problems and make recommendations on fixing them."

Sent from my BlackBerry Wireless Handheld

027436



Gracia Hillman/EAC/GOV

04/19/2007 10:18 PM

To rrodriguez@eac.gov

cc

bcc

Subject Fw: The Side By Side Project

History:

This message has been replied to.

My system picked up your personal email address. Strange but true.

-----Forwarded by Gracia Hillman/EAC/GOV on 04/20/2007 10:16PM -----

To: rosemaryrod2003@yahoo.com

From: Gracia Hillman/EAC/GOV

Date: 04/19/2007 10:15PM

Subject: The Side By Side Project

I have made the following suggestion to Tom:

Tom:

I am not so sure having an election official do the side by side is the best way to go. This issue is not about election officials. It is about DC rat hole politics and the presentation of research "data."

I offer the following names for consideration.

Bruce Cain and Raymond Wolfinger. Both teach at Berkeley although Wolfinger retired last spring. Both are considered at the top of the poli sci hierarchy, in terms of competence and status. I am told they are very good scholars who do not have a reputation for partisanship, although they have been involved in "the real world of politics."

Here are their Web sites:

~~http://www.berkeley.edu/~cain/~~

~~http://www.berkeley.edu/~wolfinger/~~

Rosemary E.
Rodriguez/EAC/GOV
04/20/2007 08:11 AM

To: Gracia Hillman/EAC/GOV@EAC
cc
bcc
Subject: Re: The Side By Side Project

I am going to have to learn the DC vernacular--"rat hole" is a new term for me. I think Bruce is pretty identified w Dems so I think there may be push back on him--I think that's why Tom was going for an EO, to get one of the non-partisan folks involved. We should get the best person for our audience--so I think we should identify our audience and I think that is the Congress.

----- Original Message -----

From: Gracia Hillman
Sent: 04/19/2007 10:18 PM EDT
To: Rosemary Rodriguez
Subject: Fw: The Side By Side Project

My system picked up your personal email address. Strange but true.

-----Forwarded by Gracia Hillman/EAC/GOV on 04/20/2007 10:16PM -----

To: [REDACTED]
From: Gracia Hillman/EAC/GOV
Date: 04/19/2007 10:15PM
Subject: The Side By Side Project

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Tom:

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Here are their Web sites:

[REDACTED]

[REDACTED]

Rosemary E.
Rodriguez/EAC/GOV
04/20/2007 08:13 AM

To: Gracia Hillman/EAC/GOV@EAC, Juliet E.
Hodgkins/EAC/GOV@EAC
cc: Donetta L. Davidson/EAC/GOV@EAC, Caroline C.
Hunter/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC,
Thomas R. Wilkey/EAC/GOV@EAC
bcc: "Staci Fabre" <[REDACTED]>
Subject: Re: Letter to Bd of Adv w/eds 

I believe that we should respond to Chair Serrano's request that we release the report and release it, post-haste.

----- Original Message -----

From: Gracia Hillman
Sent: 04/19/2007 05:55 PM EDT
To: Juliet Hodgkins
Cc: Donetta Davidson; Caroline Hunter; Rosemary Rodriguez; Jeannie Layson; Thomas Wilkey
Subject: Letter to Bd of Adv w/eds

So, do we now wait until a final decision is made about the release of the report, in which we might say, "EAC has voted to release the report with a side by side...etc."?

At any rate, I urge that if we do decide to release the report, that we still send this out now and then send the side-by-side when it is ready.

027439

Jeannie Layson/EAC/GOV
04/16/2007 10:18 AM

To Donetta L. Davidson/EAC/GOV, ghillman@eac.gov, Caroline
C. Hunter/EAC/GOV@EAC, Rosemary E.
Rodriguez/EAC/GOV@EAC
cc Thomas R. Wilkey/EAC/GOV@EAC, Juliet E.
Hodgkins/EAC/GOV@EAC
bcc
Subject Chair Requests Internal Review

Commissioners,

The chair has asked me to provide you with the memo she just submitted to Curtis Crider, requesting a review of our contracting procedures surrounding the voter identification and vote fraud and voter intimidation research projects. She has asked me to write a press release about this decision, which I will send to you shortly. She requests that we incorporate the commission's request into the letter to the advisory boards and to Congresswoman Lofgren. She also requests that we respond to Sen. Feinstein's letter, letting her know that we are working to comply with her request, but we wanted to alert her to the action we've taken.

I am going to circulate this to the staff so everyone will be aware of this action. Please let me know if you have any questions, and I will have a press release for your review shortly. Attached to the press release will be this memo, letters from Members of Congress regarding this issue, and the recent statements from Congressmen Hinchey and Serrano.



IG Review Req. 4-16-07.doc

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW
Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

027440



April 16, 2007

MEMORANDUM

To: EAC Inspector General Curtis Crider
Fr: EAC Chair Donetta Davidson
Cc: Commissioners Rodriguez, Hillman and Hunter, Tom Wilkey, and Julie Hodgkins
RE: EAC requests review of contracting procedures

On Friday, April 13, each of my three colleagues – Rosemary Rodriguez, Gracia Hillman, and Caroline Hunter -- agreed with my recommendation that we issue the following formal request to the Commission's Office of Inspector General to review the circumstances surrounding two recent EAC research projects – vote fraud and voter intimidation and voter identification.

Background

The U.S. Election Assistance Commission (EAC) is an independent, bipartisan Commission created by the Help America Vote Act (HAVA) of 2002.

EAC develops guidance to meet HAVA requirements, adopts voluntary voting system guidelines, accredits voting system test laboratories, certifies voting systems and audits the use of HAVA funds. HAVA also directs EAC to maintain the national mail voter registration form developed in accordance with the National Voter Registration Act (NVRA) of 1993.

The Commission serves as a national clearinghouse and resource of information regarding election administration. It is under the Commission's clearinghouse role that research projects are conducted with the goal of providing information that will lead to improvements in election administration, as well as inform the public about how, where and when we vote.

The voter identification research was conducted by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics ("Contractor"). The contract, awarded in May 2005, required the Contractor to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches. Last month, the commission voted unanimously not to adopt the report, citing concerns with its methodology, but voted to release all of the data provided by the Contractor.

The vote fraud and voter intimidation research was conducted by Tova Wang and Job Serebrov ("Consultants"). The contracts, awarded in September 2005, issued to these Consultants tasked them with defining the terms vote fraud and voter intimidation and providing recommendations how to conduct extensive research in the future on these topics. The contract stated that the Consultants were responsible for "creating a report summarizing the findings of this preliminary research effort and Working Group deliberations. This report should include any recommendations for future EAC research resulting from this effort."

Review Request

The actions taken by the Commission regarding both the voter identification and the vote fraud and voter intimidation research projects have been challenged. Specifically, Members of Congress, the media, and

the public have suggested that political motivations may have been part of the Commission's decision making process regarding these two projects. Also, the Commission has been criticized for the amount of taxpayer dollars that were spent on these two projects, as well as how efficiently these projects were managed.

The Commission takes these allegations very seriously, and we request that you fully review the following issues and provide the Commission and the Congress with a report of your findings as soon as possible. The Commission stands ready to assist you in these efforts and will provide whatever information, including memos, emails and other documents you will need. Cooperating with your review will be the staff's top priority.

1. Current Commission policy regarding awarding and managing research contracts.
2. Issuance and management of the vote fraud and voter intimidation contract.
3. Circumstances surrounding the receipt of information from Consultants regarding the vote fraud and voter intimidation project.
4. Circumstances surrounding staff efforts to write a final report for Commission consideration.
5. Identification of staff members who assisted in the editing and collaboration of the final vote fraud and voter intimidation report for Commission consideration.
6. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the vote fraud and voter intimidation project.
7. Circumstances surrounding Commission discussion and deliberation of final adoption of *Election Crimes: An Initial Review and Recommendation for Further Study*.
8. Issuance and management of the voter identification contract.
9. Circumstances surrounding the receipt of information from Contractor regarding the voter identification report.
10. Identification of staff members who assisted in the editing, collaboration, and recommendation to the Commission regarding final adoption of the voter identification report.
11. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the voter identification project.
12. Circumstances surrounding Commission deliberation whether to adopt a final voter identification report.

For your information, I have attached statements and related correspondence from Members of Congress, and a statement issued by the Commission regarding the criticism.

It is our hope that your findings will instruct us how to move forward in a more efficient, effective and transparent manner. The Commission takes its mandates under HAVA very seriously, and this small Commission has an enormous amount of work to conduct, including testing and certifying voting equipment, providing guidance and assistance to election officials, and auditing the proper use of the \$3.1 billion that was distributed under HAVA.

We look forward to your findings so that we may take the actions necessary to improve the way we conceive research projects, manage research contracts, and make decisions regarding the final release of data provided to the Commission from a third party.

Juliet E. Hodgkins/EAC/GOV
04/30/2007 05:39 PM

To "Davidson, Donetta" <ddavidson@eac.gov>, Rosemary E.
Rodriguez/EAC/GOV@EAC, Gracia
Hillman/EAC/GOV@EAC, Caroline C.
cc

bcc

Subject Requested background on Florida Request

Commissioners,

Earlier, I was asked to provide information relative to the history of how the Florida request came to the Commission and to provide any additional information that Florida has provided since that initial request. First, here is the time line of how the request came to us:

3/12/2007 - Bob West of the Florida Legislature requested information from Edgardo regarding whether HAVA funds could be used to replace DREs with touch screen systems.
3/13/2007 - Amy Tuck of the Florida Secretary of State's office sent the same request
3/14/2007 - Edgardo, Julie and Jeannie had a conversation with Amy Tuck via telephone to discuss the question that she posed; she followed that up with an email.
4/5/2007 - Amy Tuck requested a written opinion as to the questions that had been asked previously in the telephone conversation and via subsequent emails
4/16/2007 - Julie, Tom and Edgardo had a telephone conference with the FL Secretary of State (Kurt Browning) and a host of others from his office and from the State Legislature
4/16/2007 - FL Secretary of State's office sent via email additional information requested during the conference call with the Secretary of State and others
4/25/2007 - FL Secretary of State provided additional information regarding the \$5,000,000 grant program for the purchase of ballot on demand systems
4/30/2007 - FL Secretary of State provided additional information on what systems are replaced by the \$5,000,000 grant program.

Attached below are documents 1) containing emails between EAC (Edgardo) and FL; 2) containing information provided by the FL Secretary of State's office on 4/16/2007 -- 2 documents; and 3) containing information provided by the FL Secretary of State's office on 4/25/2007.



Emails from FL on request.pdf FL HAVA Funding.pdf Email from FL to Tom.doc



FL Letter.pdf

Juliet T. Hodgkins
General Counsel
United States Election Assistance Commission
1225 New York Ave., NW, Ste 1100
Washington, DC 20005
(202) 566-3100

027643



"West, Bob"

04/02/2007 03:26 PM

To ecortes@eac.gov

cc

bcc

Subject RE: Response: Using HAVA funds to replace voting equipment

History

This message has been replied to and forwarded.

Edgardo,

What are the restrictions on the use of the interest from the HAVA money and were do I find those rules. Can we use the interest to replace Florida DRE's with optical scan?

Thanks

Bob West - Legislative Analyst
Florida House of Representatives
Ethics and Elections
402 HOB
Tallahassee, FL 32399-1300

From: ecortes@eac.gov [mailto:ecortes@eac.gov]
Sent: Monday, March 12, 2007 2:41 PM
To: West, Bob
Subject: Response: Using HAVA funds to replace voting equipment
Importance: High

Mr. West,

You requested information this morning via telephone on whether Florida could use its remaining HAVA §251 funds to replace DREs previously purchased with HAVA funds with optical scan voting systems. Since you have requested an answer by this afternoon to assist in your legislative session and a specific answer to your question would require us to collect additional information and would take additional time, I am including a response sent to Washington State regarding a similar question. Please review this and see if it is sufficient for what you need. I have also included an explanation of acceptable uses of HAVA funds as well as other federal rules and regulations that are applicable to the use of HAVA funds. I have highlighted the sections most closely related to your request. Please let me know if you have any additional questions or if you need further clarification. Thank you.

Sources and Uses of HAVA Funds

There are three sources of funding provided by HAVA for use to improve the administration of federal elections and to meet the requirements of Title III of HAVA (specifically to implement provisional voting, to improve voting technology, to develop and implement a statewide voter

027624

registration database, to provide information to voters, and to verify and identify voters according to the procedures set forth in HAVA). Those sources are Section 101, Section 102 and Section 251 funds.

The funds received by a state under Section 101 can be used for the following purposes:

- A. Complying with the requirements under title III.
- B. Improving the administration of elections for Federal office.
- C. Educating voters concerning voting procedures, voting rights, and voting technology.
- D. Training election officials, poll workers, and election volunteers.
- E. Developing the State plan for requirements payments to be submitted under part 1 of subtitle D of title II.
- F. Improving, acquiring, leasing, modifying, or replacing voting systems and technology and methods for casting and counting votes.
- G. Improving the accessibility and quantity of polling places, including providing physical access for individuals with disabilities, providing non-visual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and to individuals with limited proficiency in the English language.
- H. Establishing toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specific polling place locations, and other relevant information.

Section 102 funds can be used ONLY for the purposes of replacing punch card and lever voting systems with voting systems that comply with Section 301(a) of HAVA.

Section 251 funds can be used to implement any of the Title III requirements, including purchasing compliant voting systems, implementing provisional voting, providing information to voters in the polling place, developing and implementing a statewide voter registration list, and identifying voters. In addition, states and local governments can use HAVA funds to improve the administration of elections for Federal office when one of two conditions is met: (1) the state has met the requirements of Title III; or (2) the state notifies EAC of its intention to use an amount not to exceed the amount of the minimum payment that the state either did or could have received under the Section 252 formula for that purpose.

The uses of Section 251 funds (and Section 101 funds, when used to meet the requirements of Title III) must be accounted for in the state's plan as originally submitted or later amended. Any material change in the use of 251 funds (and Section 101 funds as specified above) from the approved state plan will require the state to revise its plan and submit the revisions to the EAC for publication and approval.

Costs must be Allowable, Allocable and Reasonable

In addition to the restrictions on the uses of funds imposed by HAVA, when these funds were distributed by either the General Services Administration (GSA) or the EAC, those funds were

HAVA FUNDING

May, 2001	Florida Legislature passes the Florida Election Reform Act that required replacement of punchcard or lever voting systems
August, 2001	Contracts sent to counties for partial payment from state general revenue fund to replace or reimburse punchcard and lever voting systems Payment formula: \$3750 for large counties, \$7500 for smaller counties (per polling place as reported by counties) Total to counties from the state: \$12,046,875.00 <i>(See Attachment A for county by county breakdown)</i> <i>Please note: County contracts to replace punchcard and lever voting systems were well in excess of this state funded formula.</i>
July, 2002	Contracts sent to counties for partial payment from state general revenue fund to replace or reimburse punchcard and lever voting systems Payment formula: \$3750 for large counties, \$7500 for smaller counties (per polling place as reported by counties) Total to counties from the state: \$12,046,875.00 <i>(See Attachment B for county by county breakdown)</i> <i>Please note: County contracts to replace punchcard and lever voting systems were well in excess of this state funded formula.</i> Total state payout for the replacement of punchcard or lever voting systems: \$24,093,750.00
October, 2002	HAVA is passed by Congress
April, 2003	Receipt of HAVA Funding Initial Payment 101: \$5,000,000.00 102: \$0 251: \$0
June, 2003	Receipt of HAVA Funding Balance of Section 101 102 Funds 101: \$9,447,580.00 102: \$ 11,581,377.00
July, 2003	Distribution of HAVA funding to the state for section 102 purchases (replacement of punchcard or lever voting systems) Total: \$11,500,000.00

Total HAVA funding from section 102 to replace punchcard or lever voting systems: \$11,500,000.00

June, 2004

Receipt of HAVA Funding
Year 2003 Title II Funding
251: \$47,416,833.00

September, 2004

Distribution of HAVA funding to counties for compliance with Section 251 (ADA) for accessible machines at polling places
Grant award to 51 counties to get in to compliance
Total: \$11,600,000.00 from 251 funding
(See Attachment C for county by county breakdown)

December, 2004

Receipt of HAVA Funding
Year 2004 Title II Funding
251: \$85,085,258.00

May, 2006

Final distribution of HAVA funding to counties for compliance with Section 251 (ADA) for accessible machines at polling places
Grant award to 16 counties that were already in compliance
Total: \$13,469,378.54 from 251 funding
(See Attachment D for county by county breakdown)

Total distribution for Section 301 purposes for accessible voting systems from Section 251 funding: \$25,069,378.54

April, 2007

Discussion regarding payment of Governor's proposed legislation with HAVA funding

Governor's proposal:

1. Optical scan in all precincts and early voting sites
Estimated cost to state: \$22,861,850.00
2. One VVPAT at each precinct for ADA purposes
Estimated cost to state: \$7,511,360.00
3. One VVPAT at each early voting site for ADA purposes
Estimated cost to state: \$304,850.00
4. Ballot on demand grant to counties that were 100% touchscreen at early voting sites in 2006 general election (to be funded per voter)
Grant amount: \$5,000,000.00

Total: \$35,678,060.00*

**Please note that counties will have additional costs.*

027467

**FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS
VOTING SYSTEMS AGREEMENTS
FY 2001-02**

FY 2001-02 Voting Systems Agreements	
County	Amount
Alachua	99,375
Baker	30,000
Bay	88,125
Bradford	75,000
Brevard	331,875
Broward	1,158,750
Calhoun	48,750
Charlotte	118,125
Citrus	65,625
Clay	95,625
Collier	180,000
Columbia	116,250
DeSoto	56,250
Dixie	45,000
Duval	502,500
Escambia	202,500
Flagler	101,250
Franklin	30,000
Gadsden	60,000
Gilchrist	45,000
Glades	48,750
Gulf	52,500
Hamilton	30,000
Hardee	45,000
Hendry	82,500
Hernando	95,625
Highlands	45,000
Hillsborough	600,000
Holmes	60,000
Indian River	71,250
Jackson	101,250
Jefferson	48,750
Lafayette	18,750
Lake	161,250
Lee	281,250
Leon	178,125
Levy	78,750
Liberty	30,000
Madison	41,250
Manatee	253,125

**FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS
VOTING SYSTEMS AGREEMENTS
FY 2001-02**

FY 2001-02 Voting Systems Agreements	
County	Amount
Marion	180,000
Martin	75,000
Miami-Dade	1,156,875
Monroe	61,875
Nassau	78,750
Okaloosa	90,000
Okeechobee	67,500
Orange	433,125
Osceola	123,750
Palm Beach	995,625
Pasco	247,500
Pinellas	646,875
Polk	305,625
Putnam	187,500
St. Johns	106,875
St. Lucie	146,250
Santa Rosa	67,500
Sarasota	266,250
Seminole	249,375
Sumter	90,000
Suwannee	60,000
Taylor	52,500
Union	41,250
Volusia	322,500
Wakulla	45,000
Walton	120,000
Washington	56,250

TOTAL 12,046,875

**FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS
VOTING SYSTEMS AGREEMENTS
FY 2002-03**

Voting Systems Agreements	
County	Amount
Alachua	99,375
Baker	30,000
Bay	88,125
Bradford	75,000
Brevard	331,875
Broward	1,158,750
Calhoun	48,750
Charlotte	118,125
Citrus	65,625
Clay	95,625
Collier	180,000
Columbia	116,250
DeSoto	56,250
Dixie	45,000
Duval	502,500
Escambia	202,500
Flagler	101,250
Franklin	30,000
Gadsden	60,000
Gilchrist	45,000
Glades	48,750
Gulf	52,500
Hamilton	30,000
Hardee	45,000
Hendry	82,500
Hernando	95,625
Highlands	45,000
Hillsborough	600,000
Holmes	60,000
Indian River	71,250
Jackson	101,250
Jefferson	48,750
Lafayette	18,750
Lake	161,250
Lee	281,250
Leon	178,125
Levy	78,750
Liberty	30,000
Madison	41,250
Manatee	253,125

**FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS
VOTING SYSTEMS AGREEMENTS
FY 2002-03**

Voting Systems Agreements	
County	Amount
Marion	180,000
Martin	75,000
Miami-Dade	1,156,875
Monroe	61,875
Nassau	78,750
Okaloosa	90,000
Okeechobee	67,500
Orange	433,125
Osceola	123,750
Palm Beach	995,625
Pasco	247,500
Pinellas	646,875
Polk	305,625
Putnam	187,500
St. Johns	106,875
St. Lucie	146,250
Santa Rosa	67,500
Sarasota	266,250
Seminole	249,375
Sumter	90,000
Suwannee	60,000
Taylor	52,500
Union	41,250
Volusia	322,500
Wakulla	45,000
Walton	120,000
Washington	56,250

TOTAL 12,046,875

**DEPARTMENT OF STATE
DIVISION OF ELECTIONS
VOTING SYSTEMS ASSISTANCE GRANT
FY 2004-05**

COUNTY	POLLING PLACES *	EXISTING SYSTEMS - COMPLIANT	REQUIRED	FUNDING PER COUNTY
Alachua	70	0	70	\$ 316,076.29
Baker	10	0	10	45,153.76
Bay	55	2	53	239,314.91
Bradford	17	2	15	67,730.63
Brevard	139	0	139	627,637.21
Calhoun	12	0	12	54,184.51
Citrus	41	0	41	185,130.40
Clay	59	0	59	266,407.16
Columbia	24	0	24	108,369.02
DeSoto	15	0	15	67,730.63
Dixie	11	0	11	49,669.13
Duval	266	3	263	1,187,543.79
Escambia	85	0	85	383,806.93
Flagler	32	0	32	144,492.02
Franklin	8	1	7	31,607.63
Gadsden	25	0	25	112,884.39
Gilchrist	10	0	10	45,153.76
Glades	12	0	12	54,184.51
Gulf	13	0	13	58,699.88
Hamilton	9	0	9	40,638.38
Hardee	12	0	12	54,184.51
Hendry	22	2	20	90,307.51
Hernando	52	0	52	234,799.53
Holmes	16	0	16	72,246.01
Jackson	27	2	25	112,884.39
Jefferson	15	0	15	67,730.63
Lafayette	6	0	6	27,092.25
Leon	125	0	125	564,421.95
Levy	14	0	14	63,215.26
Liberty	8	1	7	31,607.63
Madison	11	0	11	49,669.13
Manatee	136	0	136	614,091.09
Marion	110	0	110	496,691.32
Monroe	33	0	33	149,007.40
Okaloosa	52	0	52	234,799.53
Okeechobee	17	0	17	76,761.39
Orange	253	0	253	1,142,390.04
Osceola	67	0	67	302,530.17
Polk	148	0	148	668,275.59
Putnam	33	1	32	144,492.02
Santa Rosa	40	0	40	180,615.03
Seminole	99	0	99	447,022.19
St. Johns	57	0	57	257,376.41
St. Lucie	59	0	59	266,407.16
Suwannee	16	0	16	72,246.01

**DEPARTMENT OF STATE
DIVISION OF ELECTIONS
VOTING SYSTEMS ASSISTANCE GRANT
FY 2004-05**

COUNTY	POLLING PLACES *	EXISTING SYSTEMS - COMPLIANT	REQUIRED	FUNDING PER COUNTY
Taylor	14	0	14	63,215.26
Union	11	0	11	49,669.13
Volusia	155	0	155	699,883.22
Wakulla	12	0	12	54,184.51
Walton	32	0	32	144,492.02
Washington	18	0	18	81,276.76
TOTAL	2,583	14	2,569	\$ 11,600,000.00

FY 2004-05 Appropriation for Voting Systems Assistance

11,600,000

Average cost per machine

4,515.38

From funds in Specific Appropriation 28711, \$11,600,000 shall be distributed by the Department of State to county supervisors of elections for the purchase of Direct Recording Equipment (DRE) or other state approved equipment that meets the standards for disability requirements which is accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place. The funds are to be distributed according to the number of machines that are accessible for persons with disabilities that are needed in order for each county to have one per polling place. No supervisor of elections shall receive any funds until the county supervisor of elections certifies to the Department of State: 1) the number of precincts in the county; 2) the number of polling places in the county; 3) the number of voting machines the county has that meet the disability requirement; 4) the county's plan for purchasing the DRE's; and 5) the date that the county anticipates being in compliance.

The Department of State will determine the number of DRE's needed in each county based on the certifications provided by the supervisors of elections. Any county that receives funds from Specific Appropriation 28711 that is not in compliance with the accessibility requirements in Section 301(a)(3) Title III of the Help America Vote Act by January 1, 2006, shall be required to return those funds to the State.

*Polling places on Election Day

Help America Vote Act (HAVA) Voting Systems Assistance Grants

**Reimbursement to counties with
polling places that were unfunded in FY 2004-05
due to existing DRE equipment
FY 05-06**

Bay	\$9,030.76
Bradford	\$9,030.76
Duval	\$13,546.14
Franklin	\$4,515.38
Hendry	\$9,030.76
Jackson	\$9,030.76
Liberty	\$4,515.38
Putnam	<u>\$4,515.38</u>
TOTAL	<u>\$63,215.32</u>

**Reimbursement to Counties
With at least one DRE per polling place
prior to 7-1-2004
FY 05-06**

Broward	\$2,298,328.42
Charlotte	\$293,499.70
Collier	\$370,261.16
Highlands	\$112,884.50
Hillsborough	\$1,490,075.40
Indian River	\$216,738.24
Lake	\$451,538.00
Lee	\$731,491.56
Martin	\$221,253.62
Miami-Dade	\$2,524,097.42
Nassau	\$99,338.36
Palm Beach	\$1,896,459.60
Pasco	\$645,699.34
Pinellas	\$1,309,460.20
Sarasota	\$605,060.92
Sumter	<u>\$139,976.78</u>
TOTAL	<u>\$13,406,163.22</u>

GRAND TOTAL	<u><u>\$13,469,378.54</u></u>
--------------------	--------------------------------------

Thomas R. Wilkey
Executive Director
US Election Assistance Commission
1225 New York Ave, NW - Suite 1100
Washington, DC 20005
(202) 566-3109 phone
TWilkey@eac.gov

----- Forwarded by Thomas R. Wilkey/EAC/GOV on 04/16/2007 02:24 PM -----

"Tuck, Amy K."

<AKTuck@dos.state.fl.us>

twilkey@eac.gov

To

04/16/2007 02:23 PM

cc

Subject

RE: Florida HAVA Funding

Tom,

Here are the counties:

100% Touch Screen

Charlotte
Collier
Hillsborough
Indian River
Lake
Lee
Martin
Nassau
Palm Beach
Pasco
Pinellas
Broward
Miami-Dade
Sarasota
Sumter

Let me know if you need anything else.

Amy K. Tuck, Esq.
Director, Division of Elections
Florida Department of State
The R.A. Gray Building
500 South Bronough Street, Room 316
Tallahassee, Florida 32399

027455

From: Woodward, Amy
Sent: Monday, April 16, 2007 2:11 PM
To: Kennedy, Jennifer L.
Cc: Tuck, Amy K.
Subject: FW: Florida HAVA Funding

From: twilkey@eac.gov [mailto:twilkey@eac.gov]
Sent: Monday, April 16, 2007 2:10 PM
To: Woodward, Amy
Subject: Re: Florida HAVA Funding

Amy;
Thanks for the information.
We need you to identify which 15 counties have DRE which need to be replaced.
Thanks
Tom

Thomas R. Wilkey
Executive Director
US Election Assistance Commission
1225 New York Ave, NW - Suite 1100
Washington, DC 20005
(202) 566-3109 phone
TWilkey@eac.gov

"Woodward, Amy" <AWoodward@dos.state.fl.us>

04/16/2007 01:18 PM

twilkey@eac.gov

To

cc

"Browning, Kurt S." <KSBrowning@dos.state.fl.us>

Florida HAVA Funding

Subject

Attached is the information from the conference call this morning.

Thank you,

*Amy Woodward
Executive Assistant
Office of the Secretary*

027657

**FLORIDA DEPARTMENT OF STATE**

CHARLIE CRIST
Governor

KURT S. BROWNING
Secretary of State

Thomas R. Wilkey
Executive Director
U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, D.C. 20005

Via Facsimile

April 25, 2007

Dear Mr. Wilkey,

This letter is in response to your request dated April 25, 2007 regarding additional information. If we understand your questions correctly, the following are our responses.

The proposed \$5 million cost for ballot on demand is separate from the proposed \$22.8 million cost to provide for optical scan voting systems to replace touchscreen systems at precinct and early voting sites. The optical scan voting systems at early voting sites will be used in conjunction with ballot on demand.

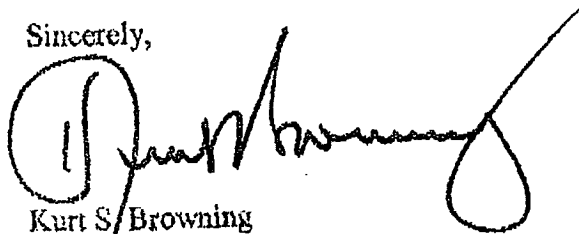
The ballot on demand system, used in conjunction with optical scan at early voting sites, is replacing touchscreen voting systems that were "partially" financed with HAVA funds. Please note that when Florida counties originally replaced punchcard and lever voting systems with touchscreen voting systems, the counties funded a majority of the cost. Florida reimbursed itself with HAVA Section 102 funds but that only constituted a small portion of the overall cost for the voting systems. For further explanation, please see the attached timeline regarding HAVA funding in Florida.

In response to your third question, I would like to restate it to be sure that I am answering the proper question. I believe your question to be: If Florida is replacing touchscreen (HAVA funded) voting systems with optical scan systems, are we also adding ballot on demand to this scenario? The answer to this question as stated is yes as it pertains to early voting sites only. The proposal is to provide optical scan voting systems that, for some early voting sites, would work in conjunction with ballot on demand. The larger counties in Florida do not have the capacity at early voting sites to provide ballot management for the voluminous ballot styles that would be required to be provided at early voting sites. Therefore, ballot on demand alleviates this problem.

As a final note, I would like to reiterate that Florida is proposing to leave one touchscreen voting system, upgraded with a voter verifiable paper audit record, in each precinct and early voting site.

If you have any further questions or need any further information, please do not hesitate to contact me. I look forward to seeing you in Washington, D.C. next week.

Sincerely,



Kurt S. Browning
Secretary of State

KSB/at

HAVA FUNDING

May, 2001

Florida Legislature passes the Florida Election Reform Act that required replacement of punchcard or lever voting systems

August, 2001

Contracts sent to counties for partial payment from state general revenue fund to replace or reimburse punchcard and lever voting systems

Payment formula: \$3750 for large counties, \$7500 for smaller counties (per polling place as reported by counties)

Total to counties from the state: \$12,046,875.00

(See Attachment A for county by county breakdown)

Please note: County contracts to replace punchcard and lever voting systems were well in excess of this state funded formula.

July, 2002

Contracts sent to counties for partial payment from state general revenue fund to replace or reimburse punchcard and lever voting systems

Payment formula: \$3750 for large counties, \$7500 for smaller counties (per polling place as reported by counties)

Total to counties from the state: \$12,046,875.00

(See Attachment B for county by county breakdown)

Please note: County contracts to replace punchcard and lever voting systems were well in excess of this state funded formula.

Total state payout for the replacement of punchcard or lever voting systems: \$24,093,750.00

October, 2002

HAVA is passed by Congress

April, 2003

Receipt of HAVA Funding

Initial Payment

101: \$5,000,000.00

102: \$0

251: \$0

June, 2003

Receipt of HAVA Funding

Balance of Section 101

102 Funds

101: \$9,447,580.00

102: \$ 11,581,377.00

July, 2003

Distribution of HAVA funding to the state for section 102 purchases (replacement of punchcard or lever voting systems)

Total: \$11, 500,000.00

Total HAVA funding from section 102 to replace punchcard or lever voting systems: \$11,500,000.00

June, 2004

Receipt of HAVA Funding
Year 2003 Title II Funding
251: \$47,416,833.00

September, 2004

Distribution of HAVA funding to counties for compliance with Section 251 (ADA) for accessible machines at polling places
Grant award to 51 counties to get in to compliance
Total: \$11,600,000.00 from 251 funding
(See Attachment C for county by county breakdown)

December, 2004

Receipt of HAVA Funding
Year 2004 Title II Funding
251: \$85,085,258.00

May, 2006

Final distribution of HAVA funding to counties for compliance with Section 251 (ADA) for accessible machines at polling places
Grant award to 16 counties that were already in compliance
Total: \$13,469,378.54 from 251 funding
(See Attachment D for county by county breakdown)

Total distribution for Section 301 purposes for accessible voting systems from Section 251 funding: \$25,069,378.54

April, 2007

Discussion regarding payment of Governor's proposed legislation with HAVA funding

Governor's proposal:

1. Optical scan in all precincts and early voting sites
Estimated cost to state: \$22,861,850.00
2. One VVPAT at each precinct for ADA purposes
Estimated cost to state: \$7,511,360.00
3. One VVPAT at each early voting site for ADA purposes
Estimated cost to state: \$304,850.00
4. Ballot on demand grant to counties that were 100% touchscreen at early voting sites in 2006 general election (to be funded per voter)
Grant amount: \$5,000,000.00

Total: \$35,678,060.00*

*Please note that counties will have additional costs.

027461

FAX



Department of State

Division of Elections

Room 1801

The Capitol

Tallahassee, Florida 32399-0250

Date 4-25-07

Number of pages including cover sheet 5

To:

Tom Wilkey

EAC

Phone #

Fax # 202 544 3128

From:

Secretary Browning

Phone #

Fax #

REMARKS:

☒ x

Per Your Request

☐ For your review

☐ Reply ASAP

☒ X

Per Conversation

027462



Gracia Hillman/EAC/GOV
05/03/2007 08:50 AM

To rrodriguez@eac.gov
cc
bcc
Subject Fw: Response Requested to Draft Letter

History

This message has been replied to.

Sorry about the yahoo address thing -- again. For some reason my system insists on picking up your yahoo address. I thought I deleted that address but apparently when there was a system restoration on my computer, it somehow revived it.

At any rate, here is the original email and draft letter.

----- Forwarded by Gracia Hillman/EAC/GOV on 05/03/2007 08:46 AM -----

Gracia
Hillman/EAC/
GOV

To Donetta Davidson, Rosemary Rodriguez, Caroline C. Hunter/EAC/GOV, Thomas Wilkey, Juliet E.
Hodgkins/EAC/GOV, Jeannie Layson
05/02/2007 cc Brian Hancock/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC, Matthew Masterson/EAC/GOV@EAC, Eileen
12:14 PM L. Colver/EAC/GOV@EAC, "Staci Fabre" [REDACTED], Stephanie Wolson/EAC/GOV@EAC,
sbanks@eac.gov
Su Response Requested to Draft Letter
bje
ct

All:

Attached is a draft of the letter that I will send to Rep. Carolyn Maloney in response to the questions she raised to me at the April 18 hearing.

The draft represents consensus among Gavin, Matt, Brian and me. We know that consensus, while adding value, also adds time. I was hoping to get this letter out the door by Friday of last week but obviously that did not happen.

Nonetheless, here it is. I plan to send the letter by the end of this week so I ask that you give me your comments and edits by Close of Business tomorrow (Thursday).

Thanks,
Gracia M. Hillman
Commissioner
U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005
Tel: 202-566-3100

027463

Fax: 202-566-1392
www.eac.gov

CONFIDENTIALITY NOTICE: This email message is from a federal agency. Its contents and all attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this email and delete this



message from your computer. Letter to Rep C Maloney, May 2007.doc

027464

**Deliberative Process
Privilege**

The Honorable Carolyn Maloney
United States House of Representatives
2331 Rayburn House Office Building
Washington, DC 20515

Dear Representative Maloney:

I am writing this letter to follow up on a conversation I had with your staff on April 23, 2007. In this conversation we clarified some of the concerns you raised in the April 18th hearing of the Subcommittee on Information Policy, Census, and National Archives, *Ensuring Fairness and Accuracy in Elections Involving Electronic Voting Systems*.

During the hearing, you indicated that you would like further explanation as to why the U.S. Election Assistance Commission (EAC) did not immediately release its Interim Accreditation Program Assessment Reports on CIBER Labs, Inc. You have expressed concern that the language in the CIBER Assessment Reports, which state that the laboratory's test reports do not provide sufficient documentation to allow a reviewer to determine if all testing was completed, was significant and should have been immediately publicized. I appreciate the opportunity to address your question.

The CIBER Assessment Reports are a part of EAC's temporary Interim Laboratory Accreditation Program. This interim accreditation program was a stop gap measure to serve elections officials for the November 2006 federal elections while EAC waited for the National Institute of Standards and Technology (NIST) to technically review and recommend laboratories to us, per HAVA.

The laboratory accreditation process is a review of a laboratory's current policies, capabilities, management, personnel and procedures in order to determine its ability to comply with a set of program standards. In operating its temporary program, EAC did not create new methodology, but followed international standards, practices and processes in consultation with NIST, which operates the National Voluntary Laboratory Accreditation Program (NVLAP). Although NVLAP did not routinely make their laboratory assessment reports public, EAC always intended to

027465

release its assessment reports and was going to do so when a final decision on accreditation had been made.

Ultimately, the EAC did not expedite the release of the CIBER Assessment Reports, because they did not conclude that a specific voting system was compromised—only that CIBER's test reports did not document testing sufficient to satisfy applied standards. Any conclusion as to whether proper testing was in fact done would have been made by the then governing certification authorities (the National Association of State Election Directors and the States) prior to the grant of certification. These certification bodies would have had access to the original test reports and voting systems. Nevertheless, we recognize that the public expects a very high level of transparency in the testing of voting systems. The assessment reports on CIBER and all labs under review have been posted on EAC's website. Additionally, in a letter dated January 12, 2007 (attached), EAC urged NIST to make the laboratory assessment work that it does for EAC as transparent as possible. As a result, NIST has decided that it will publish its assessment reports on its web site. A NIST fact sheet describing its program is also attached.

In addition, a broader concern has been raised by you, the General Accounting Office (GAO) and others regarding EAC's role as a clearinghouse of information. EAC is routinely presented third party reports, papers and findings. Often, the individuals who write or pass along these documents demand that EAC publish or forward them to our stakeholders. The nature, source and quality of these reports vary widely. As I am sure you can appreciate, EAC must be careful that its actions do not appear to be an endorsement of a non-federal entity. Further, as a body that accredits testing laboratories and certifies voting systems, EAC has a duty to remain both impartial and consistent with its published standards. And perhaps most importantly, EAC must ensure that any information it disseminates to the public is accurate and reliable so that we are not perpetuating unsubstantiated or erroneous information.

At the same time, EAC has heard loud and clear that we should move post haste to figure out how it can reasonably, timely and responsibly address these matters. Along with EAC's other commissioners and staff, I have taken a personal and direct interest in this matter so that we can expedite this part of our planning/program implementation process. We will keep you informed of our progress and the decisions we make.

EAC's laboratory accreditation and voting system testing and certification programs are firsts for the Federal Government. All policies, procedures and practices for this first time venture must be developed, vetted, adopted and published before the programs can be implemented. As I am sure you can appreciate, that work takes time and resources. In the context of the enormity of this work and the competing demands we face, time and resources are two things of which EAC has very little. Despite that fact, we have made enormous progress to administer and audit \$3 billion

in requirements payments to states; develop and implement voting system guidelines, and laboratory accreditation, voting system testing and certification programs; provide management guidelines and guidance to the states; and develop our clearinghouse.

I hope this explanation helps to assure you that EAC is committed to responsibly providing as much information to election officials and the public as is possible. EAC is committed to transparency and public trust. We would welcome the opportunity to further brief you on our work and the progress that has been made to date. In the meantime, please be sure to let me know if you need additional information or further clarification and again, thank you for your questions and interest.

Sincerely,

Gracia Hillman
Commissioner

Attachments:

Letter to NIST dated January 12, 2007
NIST Fact Sheet on Laboratory Accreditation

027467



Gracia Hillman/EAC/GOV
04/20/2007 08:39 AM

To Rosemary E. Rodriguez/EAC/GOV@EAC

cc

bcc

Subject Re: The Side By Side Project

History

This message has been forwarded

Yes, and for Congress I think we need a poli sci, not an EO.

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Rosemary E. Rodriguez
Sent: 04/20/2007 08:11 AM EDT
To: Gracia Hillman
Subject: Re: The Side By Side Project

I am going to have to learn the DC vernacular--"rat hole" is a new term for me. I think Bruce is pretty identified w Dems so I think there may be push back on him--I think that's why Tom was going for an EO, to get one of the non-partisan folks involved. We should get the best person for our audience--so I think we should identify our audience and I think that is the Congress.

----- Original Message -----

From: Gracia Hillman
Sent: 04/19/2007 10:18 PM EDT
To: Rosemary Rodriguez
Subject: Fw: The Side By Side Project

My system picked up your personal email address. Strange but true.

-----Forwarded by Gracia Hillman/EAC/GOV on 04/20/2007 10:16PM -----

To: rosemaryrod2003@yahoo.com
From: Gracia Hillman/EAC/GOV
Date: 04/19/2007 10:15PM
Subject: The Side By Side Project

I have made the following suggestion to Tom:

Tom:

I am not so sure having an election official do the side by side is the best way to go. This issue is not about election officials. It is about DC rat hole politics and the presentation of research "data."

I offer the following names for consideration.

027468

Bruce Cain and Raymond Wolfinger. Both teach at Berkeley although Wolfinger retired last spring. Both are considered at the top of the poli sci hierarchy, in terms of competence and status. I am told they are very good scholars who do not have a reputation for partisanship, although they have been involved in "the real world of politics."

Here are their Web sites:

[REDACTED]

[REDACTED]

Donetta L.
Davidson/EAC/GOV
04/03/2007 11:28 AM

To ghillman@eac.gov, Caroline Hunter, Rosemary Rodriguez,
twilkey@eac.gov, Juliet E. Hodgkins/EAC/GOV@EAC,
Jeannie Layson/EAC/GOV@EAC
cc
bcc
Subject memo

Dear colleagues:

Attached is a memo for your review. We can hopefully go over the particulars when we have our next call.
Thank you for all your kind well wishes.

Donetta



Commissioner subcommittee memo 4-2-07.doc

027470



***U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005***

MEMORANDUM

TO: Commissioner Hillman, Commissioner Hunter, Commissioner Rodriguez, Thomas Wilkey, Juliet Hodgkins and Jeannie Layson

FROM: Donetta Davidson

DATE: April 3, 2007

RE: New Commissioner Subcommittee

As a supplement to the memo issued on March 19th regarding the creation of commissioner subcommittees, I would like to propose the creation of one additional subcommittee.

Commissioners Hunter and Rodriguez have expressed their interest in the National Voter Registration Act (NVRA) and have volunteered to serve on a subcommittee to work on a number of issues we need to complete in the next few months.

Their willingness to take on this important subject will assist the staff in developing strategies to complete our work in a timely fashion.

RECOMMENDATION:

Create a new subcommittee on NVRA issues.



"Adam Ambrogi"

05/19/2005 02:18 AM

Please respond to
"Adam Ambrogi"

To "martinez, ray" <rmartinez@eac.gov>, aambrogi@eac.gov

cc

bcc

Subject Research Scrubbing

Boss:

Attached is my list of the scrubbed "must" provisions in the statute. Beyond that, I have provided my suggestion on the long lines, and on the 241 section, have BOLDED priority research, and have included notes on what might go down on certain topics.

Some comments here are just for you, so when I come in, I can clean up the first section if you want to make some copies for the other Commissioners, please let me know.

Hope this helps.

Adam Ambrogi
1987 N. Adams St.
Arlington, VA 22201



Amended Research Topics Memo.doc

027472

Title III, Subtitle B requires that the EAC shall provide guidance to the states on all the requirements found in HAVA, Title III, Subtitle A.

- 1) *HAVA 301 (a)(4) & (5)*: Legal research to be performed to determine whether the Voluntary Voting System Guidelines meet the "Alternative language accessibility" and "Error rates" legal standards found in sections of 301 (a).
- 2) *HAVA 302 (b)*: Voting Information Requirements. Research to be completed on how the state "caused voting information" to be publicly posted, the kinds of information displayed, and the relative effectiveness of that signage. [Potential efficiencies with Design for Democracy/AIGA Research on Signage efficiency.]
- 3) *HAVA 303(a) (8) (A-C)*: Research/Work with the Social Security Administration to understand the process by which states link to the SSA system to verify the last-4 digits of the registrant's Social Security number. [Need to examine system, understand how it works, understand how rejected numbers are treated by the states, and provide guidance to the states on how to treat those "rejects."]
- 4) NVRA Form
 - a. Update of the form; examine form for clarity, usability, electronic capabilities, internet voter registration. [Potential work with Design for Democracy; potential ideal ballot design templates.]
 - b. Examine effectiveness under the NVRA. The EAC is now the designated agency that looks at the effectiveness of the NVRA. There have been complaints from advocacy groups that the states have not fully developed the proper distribution of voter registration forms through the Voter Registration Agencies (as defined by NVRA).
- 5) Help America Vote College Program. EAC "shall create" (still in existence.)
 - a. Research on the HAV College Program "Create a Poll Worker Program" Kit that can be developed/distributed to colleges, to inform them of the best method of creating poll worker volunteer organizations. Work with design organizations to plan/create such programs.
 - b. Research on the best methods to train college pollworkers, potentially through partnership with the Pollworker Institute (Warren, Collins-Folely).
 - c. Potential use for VA, NJ Gubernatorial elections in Nov. 05.
 - d. Focus on research on how to better comply with *HAVA Sec. 501 (b)(2)*, which requires the EAC to take actions (as appropriate) to encourage State and local governments to use the services of the student participating in the Program. [Perhaps through the Pollworker Institution, or certain organizations that specialize in state/local volunteer programs.]
- 6) *HAVA 205 (b)*: Information from other Federal Agencies. "The EAC may secure directly information from any Federal Department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Commission, the head of such department or agency shall

furnish such information to the Commission.” What information would be necessary, and from what agencies? File material from FEC? DOD UOCAVA voter statistics? US Commission on Civil Rights Florida testimony? There is a lot of essential areas that we might want for historical or clearinghouse function to have in-house, for research purposes. Research should be done as to find out the kinds and type of information that the Commission might need in carrying out duties.

- 7) [QUESTION FOR RM: READ CAREFULLY!! HAVA Sec. 703(b). I know that we were working on some form for UOCAVA, but it's been a while since I've reviewed the report. 703(b) states that we, in conjunction with the Standards Board and Board of Advisors, “**shall** develop a standardized format for the reports submitted by states,...and **shall** make the format available to the States and units of government submitting such reports.] Have we researched/developed this form? I don't have my work on me here.
- 8) [ADDITIONAL QUESTION: 801(a) States that the EAC shall be transferred all the functions which the Office of Election Administration exercised under the date of their authority from the FEC. What specific authority did the OEA have, under the FEC, or administrative rule?

My focus in a quick review of the research topics are:

- 1) What are the changes that HAVA makes to our elections system, and how can we prepare election administrators for that change?
- 2) What were the major problems individual voters and election officials had on Election Day 2004?

It strikes me that we need to tackle the issue that will have the most concern for most Americans.

On those issues that face the elections process; you would want to tackle the retrospective and the prospective. Aside from the topic below, I would recommend that:

- 1) Research be done on the reasons and rationale for long lines that may occur on election day, and what can be done before election day to prepare for long lines. [Handles 2004 problems as well as potentially consolidated polling places.]

HAVA Research Action [Priority Actions BOLDED]:

- (1) Methods and mechanisms of election technology and voting systems used in voting and counting votes in elections for Federal office, including the over-vote and under-vote notification capabilities of such technology and systems.

(2) Ballot designs for elections for Federal office.

(3) Methods of voter registration, maintaining secure and accurate lists of registered voters (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies and all polling sites), and ensuring that registered voters appear on the voter registration list at the appropriate polling site.

(4) Methods of conducting provisional voting.

(5) Methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including individuals with disabilities (including the blind and visually impaired), Native American or Alaska Native citizens, and voters with limited proficiency in the English language.

(6) Nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office.

(7) Identifying, deterring, and investigating methods of voter intimidation.*[Chair will likely push this-compromise for the voter fraud provisions.]*

(8) Methods of recruiting, training, and improving the performance of poll workers.

(9) Methods of educating voters about the process of registering to vote and voting, the operation of voting mechanisms, the location of polling places, and all other aspects of participating in elections.

(10) The feasibility and advisability of conducting elections for Federal office on different days, at different places, and Public information. during different hours, including the advisability of establishing a uniform poll closing time and establishing—

(A) a legal public holiday under section 6103 of title 5, United States Code, as the date on which general elections for Federal office are held;

(B) the Tuesday next after the 1st Monday in November, in every even numbered year, as a legal public holiday under such section;

(C) a date other than the Tuesday next after the 1st Monday in November, in every even numbered year as the date on which general elections for Federal office are held; and

(D) any date described in subparagraph (C) as a legal public holiday under such section.

(11) Federal and State laws governing the eligibility of persons to vote.

(12) Ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance.

(13)(A) The laws and procedures used by each State that govern—

(i) recounts of ballots cast in elections for Federal office;
(ii) contests of determinations regarding whether votes are counted in such elections; and
(iii) standards that define what will constitute a vote on each type of voting equipment used in the State to conduct elections for Federal office.

(B) The best practices (as identified by the Commission) that are used by States with respect to the recounts and contests described in clause (i).

(C) Whether or not there is a need for more consistency among State recount and contest procedures used with respect to elections for Federal office.

(14) The technical feasibility of providing voting materials in eight or more languages for voters who speak those languages and who have limited English proficiency.

(15) Matters particularly relevant to voting and administering elections in rural and urban areas. [POTENTIAL: Long lines issues fits in here]

(16) Methods of voter registration for members of the uniformed services and overseas voters, and methods of ensuring that such voters receive timely ballots that will be properly and expeditiously handled and counted.

(17) The best methods for establishing voting system performance benchmarks, expressed as a percentage of residual vote in the Federal contest at the top of the ballot.

(18) Broadcasting practices that may result in the broadcast of false information concerning the location or time of operation of a polling place.

(19) Such other matters as the Commission determines are appropriate.

Proposed Amendments:

1) Amendment to Article V, Section 1(e)(ii):

A majority of Executive Members shall be present for a quorum at such time as a roll call is taken whether by physical presence, by telephone conference call, or virtual (electronic media) meeting; and to require a quorum re-establishment prior to action being taken. *Postponed and referred to the Bylaws Committee.*

Recommendation: Motion to strike amendment offered under Article V, Section 1(e)(ii), and insert in Article V, Section 1(e)(iii), the words "roll call" prior to the word, "vote." The Executive Board shall agree to actions by a majority roll call vote of seated members of the Executive Board. *Motion passed.*

2) Amendment to Article VIII, Section (3)(a):

The Standards Board shall agree to actions by majority vote of those present and voting unless otherwise specified by these bylaws, limiting the term present and voting to mean only those members present at such time as the roll call is taken whether by physical presence or presence at a virtual meeting room meeting. *Postponed and referred to the Bylaws Committee.*

Recommendations:

Motion to amend Article VIII, Section 1(a): A quorum shall be established when 56 Standards Board members are present for a meeting as determined by a roll call or quorum call of the Standards Boards members. *Motion passed.*

Motion to amend Article VIII, Section 3, by adding Article VIII, Section 3(c): Votes taken during meetings conducted by conference call and through virtual (electronic media) means shall have a quorum established prior to voting. *Motion passed.*

3) Motion to refer Article VII, Section 1 to the Bylaws Committee for review. *Referred to the Bylaws Committee.*

Recommendation: Send the matter to the General Counsel for a more detailed analysis and report. *Motion passed.* Carol Johnson

4) Motion to allow the Bylaws Committee to make corrections to clerical errors. *Motion passed.*

Items Pending Consideration by Bylaws Committee
As of 13 March 2007

The Nominating Committee has referred the following items to the Bylaws Committee for further consideration:

- How elections will be certified in the case of a tie vote; for example between the third and fourth candidates when only three can be elected. *straw poll, coin toss Tim Hurst - language*
- How elections will be certified if the elected candidates tip the balance of party affiliation on the Executive Board, as specified in HAVA (not more than five (5) of the same political party), *if between existing + those elected, 6 or more of same party - Toni*
Whether Unaffiliated, Independent and Nonpartisan are one in the same or three separate categories of "party" affiliation. (HAVA Section 213 (c) requires a nine (9) member Executive Board. Not more than five (5) members may be of the same political party.) *- Toni*

- ✗ Whether the bylaws should establish regions to assure geographical representation on the Executive Board. *- let membership decide*
No action taken

- Whether there should be nominations from the floor for Executive Board elections. *Preference for closing nominations + having absentee voting*
• Should the Election Certification Committee (for Executive Board elections) be stipulated in the bylaws. *→ Yes*

- Whether proxy voting should be allowed.

The following item was left pending from the February Standards Board meeting:

- Frequency of meetings of EAC Standards Board

Article VI, (a-b)

Article VIII 2(d) add language that proxy voting not allowed for St. Bd. exec. elections

By middle of June - meet in month 4/23rd week

- ① Where should Amendments go?
- ② ~~Research issue of whether state law defines~~

(860) 573-5728

027478

**EAC Standards Board
Bylaws Committee
March 14, 2007**

Summary Notes

Call to Order:

Chair Tonni Bartholomew convened the meeting at 1:07 p.m.

Members Present:

Tonni Bartholomew, Marilyn Avery, Joanne Armbruster, and Tim Hurst

Members Not Present:

Kevin Kennedy and Howard Sholl

Other Standards Board Members Present:

Peggy Nighswonger, *ex officio*

EAC Personnel Present:

Commissioner Gracia Hillman (Designated Federal Officer), Tamar Nedzar (EAC Law Clerk) and Sheila Banks (Spec Asst to Comm Hillman)

Next Standards Board Meeting

Commissioner Hillman reported that the date of the next Standards Board meeting would depend on the timeline for issuing the next iteration of the VVSG. The Technical Guidelines Development Committee (TGDC) plans to send its recommendations to EAC in July. However, congressional legislation may impact current progress, which would impact when the next Standards Board meeting would be held.

As it stands, the earliest time a meeting could take place is October 2007. Subsequently, any proposed amendments from the Bylaws Committee would have to be sent to the full Standards Board 70 days before the meeting (early July).

Proposed Amendment Items

The Nominating Committee referred the following items to the Bylaws Committee for further consideration:

- | | |
|----------------|---|
| Item #1 | How elections will be certified in the case of a tie vote; for example between the third and fourth candidates when only three can be elected. |
| Action | Tim Hurst will research state election laws and draft wording that would address the tie vote problem. Tonni Bartholomew will find where the wording will go in the newly adopted Bylaws. |

Item #2 How elections will be certified if the elected candidates tip the balance of party affiliation on the Executive Board, as specified in HAVA (not more than five (5) of the same political party).

Action All Bylaws Committee members agreed that runoff elections were not the solution to the tip the balance scenario. The committee also agreed that the solution should be placed in the bylaws. Tonni Bartholomew volunteered to research and submit recommendations.

Item #3 Whether Unaffiliated, Independent and Nonpartisan are one in the same or three separate categories of "party" affiliation and if HAVA Section 213 should apply to that category. (HAVA Section 213 (c) requires a nine (9) member Executive Board. Not more than five (5) members may be of the same political party.)

Action The Bylaws Committee agreed that unaffiliated and nonpartisan meant the same thing – not affiliated with a political party. Tonni Bartholomew will research and bring definitions back to the committee.

Item #4 Whether the bylaws should establish regions to assure geographical representation on the Executive Board.

Action Commissioner Hillman reported that the Nominating Committee could go either way on the geographical representation item. The Bylaws Committee decided to not recommend establishing regions and agreed that as long as there is visual representation (i.e. a map) showing the geographic location of current Executive Board members and nominees, Standards Board members would be able to cast their votes with geographical representation in mind.

Item #5 Whether there should be nominations from the floor for Executive Board election.

Action If nominations from the floor were eliminated, absentee voting could take place and there would no need for proxy voting for elections. Issues resulting from this elimination were identified by the Bylaws Committee and will be researched by Tamar Nedzar and Commissioner Hillman:

- not receiving a sufficient number of nominations
- deadline for sending and receiving absentee ballots

Additionally, changes would have to be made to Article V of the bylaws to address those issues.

*No nom. from floor
absentee voting procedure
No proxy voting*

Item #6 Should the Election Certification Committee (for Executive Board elections) be stipulated in the bylaws.

Action The Bylaws Committee agreed that the Election Certification Committee should be appointed at the time of the Standards Board meeting. Language will need to be drafted to reflect this decision. Commissioner Hillman will have EAC determine if the new language goes into Article 5 or Article 9 of the current bylaws.

Item #7 Whether proxy voting should be allowed.

Action Proxy voting would be allowed for business issues. EAC will draft language to be added to Article 8 of the current bylaws.

Timeline for Amendments

It was determined that proposed amendments for the items referred to the Bylaws Committee should be completed by mid-June. Tamar Nedzar will research all sections of the bylaws to identify where the recommended amendments will go.

Pending Item

The issue of the bylaws specifying the frequency of Standards Board meetings was left pending from the February board meeting. Tonni Bartholomew reviewed the EAC General Counsel's memo on this issue, a copy of which will be provided to bylaws committee members. The committee agreed that this should be handled through a resolution and not a bylaws amendment.

The next committee meeting will take place during the week of April 23.

The meeting adjourned at approximately 1:50 p.m. (EDT).

- Look @ draft minutes from May 2006 meeting - incorporate comments into draft bylaws
- Article III - December of every year, inform appointing authority who serves on St. B.
 - also as soon as EAC knows of vacancy
- Resolution 1x/year
- Amendment by way of substitution or other language
 - look @ legislative language

Procedures

- Notice of meeting to include when bylaws amendments are due.
- See X(2)

BYLAWS

UNITED STATES ELECTION ASSISTANCE COMMISSION STANDARDS BOARD

The U.S. Election Assistance Commission Standards Board, hereinafter referred to as Standards Board, embodies the vision of Congress to forge a partnership among federal, state and local election officials whose goal is to promote public confidence in the conduct of federal elections in the United States.

Article I. Authority

1. Pursuant to the Federal Advisory Committee Act and the Help America Vote Act of 2002 (HAVA) [Public Law 107-252], as such statutes may be amended from time to time, the Standards Board has been granted its authority through its charter with the United States Election Assistance Commission (EAC) (filed with Congress on June 14, 2004).

Article II. Objectives:

The Standards Board will:

1. Advise the EAC through review of the voluntary voting system guidelines described in Title II Part 3 of HAVA; through review of the voluntary guidance described under Title III of HAVA; and through the review of the best practices recommendations described in Section 241 of Title II of HAVA, as required by HAVA or as may be developed by EAC.
2. Provide guidance and advice to the EAC on a variety of topics related to the administration of elections for Federal office.
3. Function solely as an advisory body and will comply fully with the provisions of the Federal Advisory Committee Act (FACA); and all other applicable Federal laws.

Article III. Standards Board Membership

1. Pursuant to Section 213(a) of HAVA, the Standards Board shall consist of 110 members, as follows:
 - a. Fifty-five (55) shall be state election officials selected by the chief State election official of each State.
 - b. Fifty-five (55) shall be local election officials selected as follows:
 - ii. Each state's local election officials, including the local election officials of Puerto Rico and the United States Virgin Islands, shall select a representative local election official from the state in a process supervised by the chief election official of the state.
 - iii. In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official. The individual selected under such a procedure may not be a member of the same political party as the chief election official.

- c. The two Standards Board members who represent the same state may not be members of the same political party.

Article IV. Standards Board Member Terms of Service and Vacancies

1. The chief election official of each state shall notify the EAC and Executive Board of the Standards Board within five (5) business days of any vacancy or membership changes to the Standards Board.
- ~~2. Members of the Standards Board shall serve for a term of two (2) years and may be reappointed.~~
3. Vacancy appointments to the Standards Board shall be made in the same manner as the original appointment pursuant to HAVA. *accordance with 213(a) of HAVA*
→ words from HAVA

Article V. Executive Board of the Standards Board

1. Pursuant to Section 213(c) of HAVA, the Standards Board shall select nine (9) of its members to serve as the Executive Board of the Standards Board as follows:
 - a. Membership.
 - i. Not more than five (5) members of the Executive Board may be state election officials.
 - ii. Not more than five (5) members of the Executive Board may be local election officials.
 - iii. Not more than five (5) members of the Executive Board may be of the same political party.
 - b. Nominations.
 - i. The Nominating Committee shall solicit nominations for the Executive Board from Standards Board members. The Nominating Committee shall send to Standards Board members a solicitation no later than December 1st immediately prior to the expiration of any Executive Board member's term. The solicitations shall designate the address and form for submitting nominations.
 - ii. In the event of a vacancy on the Executive Board prior to the expiration of a member's term on the Executive Board, the Nominating Committee shall send to Standards Board members a solicitation no later than sixty (60) days before the next meeting of the Standards Board. The solicitations shall designate the address and form for submitting nominations.
 - iii. Standards Board members may nominate themselves or other Standards Board members by responding to the solicitation.
 - iv. Nominations shall be submitted to the Standards Board's Designated Federal Officer (DFO) in writing and may be submitted electronically no later than January 15 or in the event of a vacancy, the date indicated on the solicitation.
 - v. Upon receipt of nominations, the Nominating Committee shall prepare a ballot to be distributed to the Standards Board at least 15 days prior to the date of the Standards Board meeting immediately following the submission deadline.

Reorganize

*Expired
End of Term +
Vacancy +
enumerate
2 enumerate*

Spell out Use language from Article III

c. Elections.

1. Elections to the Executive Board shall be by secret ballot and shall take place at a meeting of the Standards Board.
2. The ballot shall be designed to enable Standards Board members to select candidates based on the following: (1) With which party the candidate affiliates, (2) whether the candidate is a state or local election official, (3) which state or territory the candidate represents, (4) whether the candidate was elected or appointed, and (5) in the case of state election officials, whether the candidate is a Secretary of State, a member of a Citizen Board, or a State Election Director. The ballot shall also include concise biographical information for each candidate.
3. For nominations following the first election (2005), not including any special elections to fill unexpired terms, two (2) of the three positions shall be local election officials. For nominations following the second election (2007), two of the three positions shall be for state election officials. The number of state and local nominations shall continue to alternate in subsequent elections.
4. Within thirty (30) days of an Executive Board election, the Executive Board members shall convene to elect a Chair, Vice-Chair, Secretary, and Parliamentarian.

d. Executive Board Members Terms of Service and Vacancies.

- i. The Chair of the Executive Board shall notify the EAC and Nominations Committee Chair within five (5) business days of any vacancy on the Executive Board.
- ii. Members of the Executive Board shall serve for a term of two (2) years and may not serve for more than three (3) consecutive terms.
- iii. Members of the Standards Board who have previously served on the Executive Board shall be eligible to be nominated to the Executive Board no sooner than two (2) years from the last term in which they served on the Executive Board.
- iv. The Chair, Vice-Chair, Secretary, and Parliamentarian shall not serve for a term of more than one (1) year. An Executive Board member shall not serve for two (2) consecutive terms for the same office, except in the case of a member serving the unexpired term of an office, in which case the member may be elected to the same office for the succeeding terms.
- v. In the event of a vacancy in the Executive Board, the remaining members of the Executive Board may appoint an interim member of the Executive Board until the next Standards Board meeting.
- vi. An Executive Board member may be removed from the Executive Board by a vote of two-thirds (2/3) of Standards Board members at a Standards Board meeting.

e. Meetings.

- i. Any two members of the Executive Board may call an Executive Board meeting by filing the original call of the meeting with the DFO, including the stated reason for calling the meeting.
- ii. A ~~majority~~ majority of Executive Board Members shall be present for a

separate into
Subsections
Initial
Term
x
Terms

Research
Removal for
cause

malfeasance, criminal activity

see open meetings memo VI. If Executive Board decided to exercise to take action, shall adhere to FACA

quorum.

- iii. The Executive Board shall agree to actions by a ~~majority~~ majority vote of the Executive Board. Proxy voting will not be allowed in Executive Board votes. Any member of the Standards Board may attend and participate in any and all discussions, but may not vote.

Article VI. Executive Board Duties

1. Chair. The Chair shall:
- Preside over all meetings of the Executive Board and Standards Board.
 - Appoint the chair of standing committees and any ad hoc committees of the Standards Board.
 - Establish the agenda for meetings of the Executive Board and Standards Board in consultation with the DFO.
 - Call meetings of the Executive Board and Standards Board in consultation with the DFO.
 - Act as the official liaison between the Standards Board and the EAC for all resolutions, recommendations, and information requests.
 - Serve as an *ex officio* member of all committees.

2. Vice-Chair. The Vice-Chair shall:

- Preside over meetings of the Executive Board and Standards Board in the Chair's absence.
- Perform other duties as may be appropriate in the Chair's absence.
- Assist the Chair from time to time as the Chair may designate.
- In the event of a vacancy before the completion of the Chair's term, serve as the Chair.

3. Secretary. The Secretary shall:

- Maintain the minutes at Executive Board and Standards Board meetings, with assistance from the DFO.
- Assist the Chair at meetings and from time to time as the Chair may designate.

4. Parliamentarian. The Parliamentarian shall:

- Ensure that all meetings are run in accordance with Roberts Rules of Order.
- Enforce the Rules of Order in his or her absence.
- Be responsible for time limitations on agenda items and holding speakers accountable to keep on time as listed (if at all) on the agenda.
- Serve as the Chair of the Bylaws Committee.

5. Executive Board. Generally. The Executive Board shall:

- Perform all duties required under HAVA and other applicable Federal law.
- Appoint the membership of appropriate standing committees and ad hoc committees by soliciting interest from the Standards Board membership.
- Meet as necessary to address issues of concern in between Standards Board meetings.
- Approve the minutes of the Executive Board meetings.
- Convene Standards Board meetings, including, but not limited to, meetings by conference call and virtual meetings. Such meetings must allow each Standards Board member to include their comments and view or hear others' comments.
- Consult with the DFO to ensure compliance with federal statutes and other applicable regulations.

in accordance w/ these bylaws ✓
Assume forfeiture creates vacancy ✓
Vacancy shall be filled in accordance with bylaws

(1) in at least one

g. Attend Executive Board meetings, including, but not limited to, meetings by conference call and virtual meetings, ~~in accordance with section (5), subsection (d) of this Article.~~ In the event that an Executive Board member fails to attend ~~in a minimum of twenty-five percent (25%) of~~ Executive Board meetings within the preceding twelve (12) month period, such Executive Board member shall forfeit his or her position on the Executive Board. ~~Executive Board may notify~~

h. As soon as possible, provide Standards Board Members all guidelines proposed to be adopted pursuant to Section 222(b)(3) of HAVA. Executive Board recommendations to the Standards Board pursuant to Section 222(b)(3) of HAVA shall include an appendix of all dissenting comments from Executive Board members.

i. Perform all other duties as from time to time the Standards Board may delegate to the Executive Board.

j. Designated Federal Officer (DFO). The DFO shall:

a. Serve as the government's agent for all Standards Board activities.

b. Approve or call Standards Board meetings

c. Approve agendas proposed by the Executive Committee.

d. Attend all Standards Board and Executive Board meetings.

e. Adjourn Standards Board and Executive Board meetings when such adjournment is in the public interest.

f. Provide adequate staff support to the Standards Board, to assist with:

i. Notifying members of the time and place for each meeting.

ii. Maintaining records for all meetings, including subgroup or working group activities, as required by law.

iii. Maintaining the roll.

iv. Assuring that minutes of all Standards Board and Executive Board meetings, including subgroup and working group activities are prepared and distributed.

v. Housing at the EAC and maintaining official Standards Board records, including subgroup and working group activities.

vi. Filing all papers and submissions prepared for or by the Standards Board, including those items generated by subgroups and working groups.

vii. Responding to official correspondence.

viii. Acting as the Standard Board's agent to collect, validate, and pay all vouchers for pre-approved expenditures.

ix. Preparing and handling all reports, including the annual report as required by FACA.

x. Upon Notice of ^{open} Executive Board Meeting, Executive Board shall notify Standards Board + public.

xi. Notify appointing authorities of vacancies on S.B.

Article VII. Meetings

1. The Standards Board shall meet as ^{required}, but not less frequently than once every 2 years for the purposes of selecting the Executive Board. Meetings shall be called by the DFO in consultation with the Executive Board.

2. The DFO shall approve the agenda for all meetings. The EAC shall distribute the agenda to Standards Board members prior to each meeting and shall publish notice of the meeting in the Federal Register as required by FACA.

1. Upon Notice of Executive Board meeting, Executive Board shall notify the Standards Board.

Reorganize

make conditions explicit

use HAVA language in 215(2)(B-C)

list C

but not less

Write Resolution for Bylaws committee - wish to meet 2 minimum

007486

3. Standards Board members and members of the public may submit agenda items to the DFO or Executive Board Chair.

④ 4. All meetings of the Standards Board shall be conducted in accordance with Roberts Rules of Order.

5. Open/Closed Meetings.

- a. Unless otherwise determined in advance, all Standards Board meetings will be open to the public. ○
- b. Once an open meeting has begun, it will not be closed unless prior approval of the closure has been obtained and proper notice of the closed session has been given to the public. ○
- c. Notices of closed meetings will be published in the Federal Register at least 15 calendar days in advance. C
- d. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the Chair will order such discussion to cease and will schedule it for closed session. ○
- e. All materials brought before, or presented to, the Board during the conduct of an open meeting, including, but not limited to, the minutes of the proceedings of the previous open meeting, will be available to the public for review or copying at the time of the scheduled meeting. ○
- f. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may, at the determination of the Chair, offer oral comment at such meeting. The Chair may decide in advance to exclude oral public comment during a meeting, in which case the meeting announcement published in the Federal Register will note that oral comment from the public is excluded. In such a case, the Standards Board will accept written comments as an alternative. In addition, members of the public may submit written statements to the EAC at any time. ○
- g. Standards Board meetings will be closed only in limited circumstances and in accordance with applicable law. The Standards Board must obtain prior approval to conduct a closed session. Requests for closed meetings must be submitted to EAC's Office of General Counsel a minimum of 45 days in advance of the proposed closed session. C
- h. Where the DFO, in conjunction with the Office of General Counsel, has determined in advance that discussions during a Standards Board meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the Government in the Sunshine Act (GISA), shall be published in the Federal Register. The notice may announce the closing of all or just part of a meeting. C

6. Minutes.

- i. The DFO, or his or her designee, shall assure that detailed minutes of each minute are prepared and distributed to Standards Board members.
- ii. Minutes of open meetings shall be available to the public upon request. Minutes of closed meetings shall be available to the public upon request, subject to the Freedom of Information Act (FOIA).
- iii. Meeting minutes shall include the following: (1) Time, (2) date, (3)

Reorganize
4: open
5: closed

Minutes
are considered
part of
gov. X

location, (4) record of persons present, including the names of Standards Board members, staff, and the names of members of the public making written or oral presentations, (5) a complete and accurate description of the matters discussed and conclusions reached, and (6) copies of all reports received, issued, or approved by the Standards Board.

iv. All documents, reports, or other materials prepared by or for the Standards Board constitute official government records and will be housed at the EAC and maintained according to the Federal Records Act.

Article VIII. Quorum and Proxy Voting

1. A quorum shall be established when fifty percent (50%) plus one of Standards Board members is present for a meeting or are present by proxy.
 - a. Only other Standards Board members may declare another Standards Board member present by proxy.
 - b. Proxy designations may be submitted in writing to the Chair up to the day of the Standards Board meeting.
2. The Standards Board shall agree to actions by majority vote of those present and voting unless otherwise specified by these bylaws.
3. Proxy votes may only be cast by Standards Board members, provided proxy designations have been timely filed in advance with the Chair clearly identifying the Standards Board member to cast an absent member's proxy vote.
4. The Chair shall appoint a proxy committee to verify the eligibility of proxy votes.
5. Voting procedures for the Standards Board, the Executive Board, and the subcommittees will follow the accepted procedure, in the latest edition of Robert's Rules of Order. Votes by the Standards Board on recommendations to EAC shall have the ayes, nays, and abstentions recorded.

Article IX. Committees

In appointing members to committees, the Standards Board shall pay particular attention to ensuring diverse membership. Accordingly, the Executive Board shall do due diligence to ensure that committee members (1) affiliate with diverse parties, (2) are representative of both state and local election officials, (3) represent different states and territories, and (4) representative of both elected and appointed officials.

1. Meetings.
 - a. All committees may meet informally at any time for the purpose of conducting their business, including telephonically or through electronic media.
2. Standing Committees.
 - a. Nominating Committee. The Nominating Committee shall:
 - i. Be comprised of five (5) members.
 - ii. Solicit nominations for the Executive Board from Standards Board members.
 - iii. Prepare and distribute to Standards Board members ballots that include all the information listed in Article V, section 1, subsection c, paragraph

- ii of these Bylaws.
- b. Bylaws Committee. The Bylaws Committee shall:
 - i. Be comprised of seven (7) members.
 - ii. Be Chaired by the Parliamentarian.
 - iii. Submit all recommended amendments to the Executive Board for a two (2) day comment period before submitting recommendations to the Standards Board for resolution and adoption.
- 3. Ad-Hoc Committees.
 - a. The Standards Board may, at any time, by majority vote, establish an ad-hoc committee.
 - b. The Standards Board member wishing to establish an ad-hoc committee must present to the Standards Board the reason(s) he/she is requesting the committee.
 - c. Once an ad-hoc committee has been established, the Executive Board shall appoint members to the ad-hoc committee.
 - d. No ad-hoc committee shall be comprised of more than ten (10) Standards Board Members.

Article X. Amendments

- 1. The bylaws may be amended based on a two-thirds (2/3) vote of the members present and voting at any Standards Board meeting.
- 2. The Standards Board's Bylaws Committee shall promulgate a form for proposing an amendment to the Standards Board's Bylaws. The form shall require the specific language of the proposed amendment to be included, identify the author of the amendment, and be designed to elicit the rationale and impact statement.
- 3. All proposed bylaw changes must be submitted in writing to the DFO, who shall thereafter forward the proposed changes to the Standards Board Bylaws Committee and the EAC's General Counsel.
 - a. The General Counsel shall report in an expeditious manner to the Bylaws Committee and the Executive Board whether or not a proposed change to the Bylaws is consistent with federal law and/or rules.
 - b. The Standards Board's Executive Committee shall place the report on the proposed change to the Standards Board's Bylaws on the agenda for the next meeting of the Standards Board.
- 4. The Executive Board shall forward all proposed changes to Standards Board members at least thirty-five (35) days prior to the next meeting of the Standards Board via email and U.S. Mail to the applicable address of record on file with the EAC. The Executive Board shall request that EAC post the proposed change to the bylaws and all supporting material on EAC's website at least thirty-five (35) days prior to the next meeting of the Standards Board.

Article XI. Expenses and Reimbursement.

- 1. Expenses related to Standards Board operations will be borne by the EAC.
- 2. Expenditures of any kind must be approved in advance by the DFO.
- 3. Standards Board members shall not receive any compensation for their services, but

Article XII Roberts Rules
shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of federal agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in performance of their services for the Standards Board.

Article
Section XII Effective Date

- Article IV*
1. These By-Laws are effective upon adoption by the Standards Board.

XIII
Section XII: Transition Procedures and Ratification

1. The adoption of the bylaws has no effect on the selection, terms or appointment of the officers or members of the Standards Board, the Executive Board, or a committee of the Board serving on the effective date of these bylaws.
2. All acts of the Standards Board, the Executive Board, or a committee of the Board are hereby ratified, except to the extent that an act does not conform with a resolution adopted by the Standards Board before the effective date of these bylaws.

XIV. Roberts Rules

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BYLAWS

UNITED STATES ELECTION ASSISTANCE COMMISSION STANDARDS BOARD

The U.S. Election Assistance Commission Standards Board, hereinafter referred to as Standards Board, embodies the vision of Congress to forge a partnership among federal, state and local election officials whose goal is to promote public confidence in the conduct of federal elections in the United States.

Article I. Authority

1. Pursuant to the Federal Advisory Committee Act and the Help America Vote Act of 2002 (HAVA) [Public Law 107-252], as such statutes may be amended from time to time, the Standards Board has been granted its authority through its charter with the United States Election Assistance Commission (EAC) (filed with Congress on June 14, 2004).

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Article II. Objectives:

The Standards Board will:

1. Advise the EAC through review of the voluntary voting system guidelines described in Title II Part 3 of HAVA; through review of the voluntary guidance described under Title III of HAVA; and through the review of the best practices recommendations described in Section 241 of Title II of HAVA, as required by HAVA or as may be developed by EAC.
2. Provide guidance and advice to the EAC on a variety of topics related to the administration of elections for Federal office.
3. Function solely as an advisory body and will comply fully with the provisions of the Federal Advisory Committee Act (FACA); and all other applicable Federal laws.

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Article III. Standards Board Membership

1. Pursuant to Section 213(a) of HAVA, the Standards Board shall consist of 110 members, as follows:
 - a. Fifty-five (55) shall be state election officials selected by the chief State election official of each State.
 - b. Fifty-five (55) shall be local election officials selected as follows:
 - ii. Each state's local election officials, including the local election officials of Puerto Rico and the United States Virgin Islands, shall select a representative local election official from the state in a process supervised by the chief election official of the state.
 - iii. In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official. The individual selected under such a procedure may not be a member of the same political party as the chief election official.

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- c. The two Standards Board members who represent the same state may not be members of the same political party.

Article IV. Standards Board Member Vacancies

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1. The chief election official of each state shall notify the EAC and Executive Board of the Standards Board within five (5) business days of any vacancy or membership changes to the Standards Board.
2. Vacancy appointments to the Standards Board shall be made in accordance with Section 213(a) of HAVA.

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Deleted: <#>Members of the Standards Board shall serve for a term of two (2) years and may be reappointed. ¶

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Article V. Executive Board of the Standards Board

1. Pursuant to Section 213(c) of HAVA, the Standards Board shall select nine (9) of its members to serve as the Executive Board of the Standards Board as follows:

a. Membership.

- i. Not more than five (5) members of the Executive Board may be state election officials.
- ii. Not more than five (5) members of the Executive Board may be local election officials.
- iii. Not more than five (5) members of the Executive Board may be of the same political party.

b. Nominations.

i. Expired Terms.

- (a) The Nominating Committee shall solicit nominations for the Executive Board from Standards Board members. The Nominating Committee shall send to Standards Board members a solicitation no later than December 1st immediately prior to the expiration of any Executive Board member's term. The solicitations shall designate the address and form for submitting nominations.
- (b) Standards Board members may nominate themselves or other Standards Board members by responding to the solicitation.
- (c) Nominations shall be submitted to the Standards Board's Designated Federal Officer (DFO) in writing and may be submitted electronically no later than January 15.
- (d) Upon receipt of nominations, the Nominating Committee shall prepare a ballot to be distributed to the Standards Board at least 15 days prior to the date of the Standards Board meeting immediately following the submission deadline.

ii. Vacancies Before the End of a Term.

- (a) In the event of a vacancy on the Executive Board prior to the expiration of a member's term on the Executive Board, the Nominating Committee shall send to Standards Board members a solicitation no later than sixty (60) days before the next meeting of the Standards Board. The solicitations shall designate the address and form for submitting nominations.

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- (b) Standards Board members may nominate themselves or other Standards Board members by responding to the solicitation.
- (c) Nominations shall be submitted to the Standards Board's Designated Federal Officer (DFO) in writing and may be submitted electronically no later than the date indicated on the solicitation.
- (d) Upon receipt of nominations, the Nominating Committee shall prepare a ballot to be distributed to the Standards Board at least 15 days prior to the date of the Standards Board meeting immediately following the submission deadline.

c. Elections.

- i. Elections to the Executive Board shall be by secret ballot and shall take place at a meeting of the Standards Board.
- ii. The ballot shall be designed to enable Standards Board members to select candidates based on the following: (1) With which party the candidate affiliates, (2) whether the candidate is a state or local election official, (3) which state or territory the candidate represents, (4) whether the candidate was elected or appointed, and (5) in the case of state election officials, whether the candidate is a Secretary of State, a member of a Citizen Board, or a State Election Director. The ballot shall also include concise biographical information for each candidate.
- iii. For nominations following the first election (2005), not including any special elections to fill unexpired terms, two (2) of the three positions shall be local election officials. For nominations following the second election (2007), two of the three positions shall be for state election officials. The number of state and local nominations shall continue to alternate in subsequent elections.
- iv. Within thirty (30) days of an Executive Board election, the Executive Board members shall convene to elect a Chair, Vice-Chair, Secretary, and Parliamentarian.

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d. Executive Board Members Terms of Service and Vacancies.

- i. Generally
 - (a) The Chair of the Executive Board shall notify the EAC and Nominations Committee Chair within five (5) business days of any vacancy on the Executive Board.
 - (b) The Chair, Vice-Chair, and Secretary, shall not serve for a term of more than one (1) year. An Executive Board member shall not serve for two (2) consecutive terms for the same office, except in the case of a member serving the unexpired term of an office, in which case the member may be elected to the same office for the succeeding terms.
 - (c) An Executive Board member may be removed from the Executive Board for cause by a vote of two-thirds (2/3) of Standards Board members at a Standards Board meeting.
 - (d) In the event of a vacancy in the Executive Board, the remaining members of the Executive Board may appoint an interim member to the Executive Board until the next Standards Board meeting.

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- (e)
ii. Initial Term.
 (a) Pursuant to Section 213(c)(3) of HAVA, of the members first selected to serve on the Executive Board of the Standards Board:
 (i) Three (3) shall serve for one (1) term.
 (ii) Three (3) shall serve for two (2) consecutive terms.
 (iii) Three (3) shall serve for three (3) consecutive terms.
- iii. Subsequent Terms.
 (a) Pursuant to Section 213(c)(2) of HAVA, members of the Executive Board shall serve for a term of two (2) years and may not serve for more than three (3) consecutive terms.
 (b) Members of the Standards Board who have previously served on the Executive Board shall be eligible to be nominated to the Executive Board no sooner than two (2) years from the last term in which the served on the Executive Board.
- e. Meetings.
 i. Any two members of the Executive Board may call an Executive Board meeting by filing the original call of the meeting with the DFO, including the stated reason for calling the meeting.
 ii. A majority of Executive Board Members shall be present for a quorum.
 iii. The Executive Board shall agree to actions by a majority vote of the Executive Board.
 iv. Proxy voting will not be allowed in Executive Board votes.
 v. Any member of the Standards Board may attend and at the discretion of the Chair, may participate in any and all discussions at an Executive Board meeting, but may not vote.
 vi. If the Executive Board decides to hold an open meeting, it shall do so in accordance with the requirements FACA.

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Article VI. Executive Board Duties

1. Chair. The Chair shall:
 a. Preside over all meetings of the Executive Board and Standards Board.
 b. Appoint the chair of standing committees and any ad hoc committees of the Standards Board.
 c. Establish the agenda for meetings of the Executive Board and Standards Board in consultation with the DFO.
 d. Call meetings of the Executive Board and Standards Board in consultation with the DFO.
 e. Act as the official liaison between the Standards Board and the EAC for all resolutions, recommendations, and information requests.
 f. Serve as an *ex officio* member of all committees.
 g. Appoint a Parliamentarian to preside over all Standards Board meetings.
 i. The Parliamentarian shall provide advice and assistance to the Chair so that the Chair can run all meetings in accordance with Roberts Rules of Order.
2. Vice-Chair. The Vice-Chair shall:

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- a. Preside over meetings of the Executive Board and Standards Board in the Chair's absence.
 - b. Perform other duties as may be appropriate in the Chair's absence.
 - c. Assist the Chair from time to time as the Chair may designate.
 - d. In the event of a vacancy before the completion of the Chair's term, serve as the Chair.
3. Secretary. The Secretary shall:

- a. ~~Oversee preparation and transmission of the minutes at Executive Board and Standards Board meetings, with assistance from the DFO.~~ *review minutes before distributed to Standards Board*
 - b. Assist the Chair at meetings and from time to time as the Chair may designate.
- Executive Board, Generally. The Executive Board shall:
- a. Perform all duties required under HAVA and other applicable Federal law.
 - b. Appoint the membership of appropriate standing committees and ad hoc committees by soliciting interest from the Standards Board membership.
 - c. Meet as necessary to address issues of concern in between Standards Board meetings.
 - d. Approve the minutes of the Executive Board meetings.
 - e. Convene Standards Board meetings, including, but not limited to, meetings by conference call and virtual meetings. Such meetings must allow each Standards Board member to include their comments and view or hear others' comments.
 - f. Consult with the DFO to ensure compliance with federal statutes and other applicable regulations.
 - g. Attend Executive Board meetings, including, but not limited to, meetings by conference call and virtual meetings, in accordance with these bylaws. In the event that an Executive Board member fails to attend or participate in at least one (1) Executive Board meeting within the the preceding twelve (12) month period, such Executive Board member shall forfeit his or her position on the Executive Board, thereby creating a vacancy. Such vacancy shall be filled in accordance with these bylaws.
 - h. As soon as possible, provide Standards Board Members all guidelines proposed to be adopted pursuant to Section 222(b)(3) of HAVA. Executive Board recommendations to the Standards Board pursuant to Section 222(b)(3) of HAVA shall include an appendix of all dissenting comments from Executive Board members.
 - i. Perform all other duties as from time to time the Standards Board may delegate to the Executive Board.
 - j. Upon notice of an Executive Board meeting, the Executive Board shall notify the Standards Board *at the Executive Board meeting.*

5. Designated Federal Officer (DFO). The DFO shall:

- a. Serve as the government's agent for all Standards Board activities.
- b. Approve or call Standards Board meetings.
- c. Approve agendas proposed by the Executive Committee.
- d. Attend all Standards Board and Executive Board meetings.
- e. Adjourn Standards Board and Executive Board meetings when such adjournment is in the public interest.
- f. Provide adequate staff support to the Standards Board, to assist with:
 - i. Notice. The DFO shall:
 - (a) Notify members of the time and place for each meeting.
 - (b) Upon notice of an open Executive Board meeting, notify the Standards Board and public of time and place for the meeting.

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